



## **MEETING RESULTS - ZIONSVILLE BOARD OF ZONING APPEALS MAY 14, 2019**

The meeting of the Zionsville Board of Zoning Appeals occurred Tuesday, May 14, 2019 at 6:30 p.m. in the Zionsville Town Hall Council Chamber, 1100 West Oak Street, Zionsville, Indiana.

The following items are scheduled for consideration:

### **I. Continued Business**

<b>Docket Number</b>	<b>Name</b>	<b>Address of Project</b>	<b>Item to be considered</b>
2018-46-DSV	R. Pabst	8090 E 550 South	<b>Approved subject to Commitments, as presented &amp; filed w/exhibits &amp; per staff report</b> <b>– 4 in Favor, 0 Opposed</b> Petition for Development Standards Variance in order to permit the establishment of a 1.83 acre lot. (Minimum lot size is 2 acres) in the Low-Density Single-Family Residential Zoning District (R1).

### **II. New Business**

<b>Docket Number</b>	<b>Name</b>	<b>Address of Project</b>	<b>Item to be considered</b>
2019-12-SE	E. Jackson	1153 S 700 East	<b>Approved with Right to Farm Commitment as presented &amp; filed w/exhibits &amp; per staff report</b> <b>– 4 in Favor, 0 Opposed</b> Petition for Special Exception to allow for new residential building(s) in an Agricultural Zoning District (AG).
2019-13-DSV	Town of Zionsville Wastewater Treatment Utility Buildings	855 Starkey Road	<b>Approved subject to ongoing review of buffer yard plantings by the Plan Commission, as presented &amp; filed w/exhibits &amp; per staff report</b> <b>– 4 in Favor, 0 Opposed</b> Petition for Variance of Development Standards to: <ol style="list-style-type: none"> <li>1) allow for buildings to be constructed on the property which utilize only one exterior building material (steel)</li> <li>2) locate buildings within the required buffer yard(s)</li> <li>3) utilizing Type A landscaping while not providing for foundation planting(s)</li> </ol> in the Urban Special Use Zoning District (SU-8).

Respectfully Submitted:

Wayne DeLong AICP, CPM

Town of Zionsville

Director of Planning and Economic Development

May 16, 2019



**Petition Number:** 2018-46-DSV

**Subject Site Address:** 8090 E 550 South

**Petitioner:** Reasa Pabst & Gregg Roberts

**Representative:** Jeff Jacobs

**Request:** Petition for Development Standards Variance in order to permit the establishment of a 1.83 acre lot. (Minimum lot size is 2 acres) in the Low-Density Single-Family Residential Zoning District (R1).

**Current Zoning:** Low-Density Single-Family Residential Zoning District

**Current Land Use:** Single-family Residential

**Approximate Acreage:** 3.83 overall acres (resulting parcels will be 2.0 acres and 1.83 acres in size)

**Zoning History:** This parcel was consolidated into the Town of Zionsville's jurisdiction in 2010. No prior petitions are known.

**Exhibits:**  
Exhibit 1 – Staff Report  
Exhibit 2 – Aerial Location Map  
Exhibit 3 - Petitioners Project Description  
Exhibit 4 – Petitioners Proposed Site Plan  
Exhibit 5 – Boone County Health Department Letter  
Exhibit 6- Boone County Natural Resource Conservation Letter  
Exhibit 7 – Stormwater Drainage Evaluation Revised May 2, 2019  
Exhibit 8 –Voluntary Commitments Revised May 2, 2019  
Exhibit 9 – Petitioners proposed Findings of Fact

**Staff Presenter:** Wayne DeLong, AICP, CPM

### **PETITION HISTORY**

This petition received an initial public hearing at the January 8, 2019 Board of Zoning Appeals meeting. At the request of a Remonstrator, the matter was continued to the February meeting of the Board of Zoning Appeals, and at the request of the Petitioner, the matter was continued to the March meeting. At the March meeting, subsequent to hearing information from both the Petitioner and Interested Parties, the BZA voted to continue the matter to the April 9, 2019 meeting. At the April meeting, subsequent to additional information being provided from both the Petitioner's Representative and the Interested Parties, the BZA voted to continue the matter to the May 14, 2019 meeting as to allow the Petitioner's representative additional time to meet with interested parties, and, as well, allow time for Interested Parties to seek counsel and advisers, if interested parties so chose, related to the matter pending with the BZA.

### **PROJECT HISTORY**

At the January 8, 2019, March 12, 2019, and April 9, 2019 meetings, the Petitioner presented information pertaining to the justification of the requested variance, and Remonstrators presented concerns regarding potential negative impacts to the area which, per Remonstrators, have the potential to occur as a result of the granting of the variance. Subsequent to the dialog between the BZA, the Petitioner, and Remonstrators, the Petitioner consulted with a number of additional professionals regarding the contemplated division of land and eventual construction of a new dwelling on the resulting lot. The reviewing agencies and design professionals comments are provided as Exhibits to this Staff Report (Exhibits 5, 6, 7).

### **PROPERTY HISTORY**

The property is comprised of a 3.83-acre tract. Staff is not aware of any prior variance requests for this property.

### **ANALYSIS**

The 3.83-acre combined parcel is currently improved with a circa 1880's dwelling (addition constructed circa 1960's) with a detached accessory structure and a corn bin. As proposed, the Petitioner desires to split the parcel to create two (2) parcels, one being a vacant 2.0-acre parcel and the other containing the existing single-family dwelling and accessory structure would become a 1.83-acre parcel.

### **LOT SIZE**

Per Section 194.081, Table 3, the minimum R1 Rural Residential District lot size when utilizing a well and septic system is two (2) acres, therefore the Petitioner must obtain a variance from current Zoning minimum requirements. As contemplated, each parcel would contain the minimum amount of required road frontage and parcel depth. No other zoning related development issues are identified based on the facts presented as part of the petition.

This area is comprised of parcels which vary in size (from 1.25 acres to parcels in excess of 100 acres); there is no established theme as to lot size which reflects the Zoning District minimum of two (2) acres. With this in mind, Staff would note that parcels along County Road 550 South, being directly

south and further east of the contemplated 1.83-acre parcel are between 1.25 and 1.57 acres in size, as well as parcels along County Road 800 East, being south of the contemplated 1.83-acre parcel are between 1.69 and 1.81 acres in size. Given that the requested parcel size is already established in the area, Staff is supportive of the petition as filed.

**PROCEDURAL – VARIANCE TO PERMIT THE ESTABLISHMENT OF A 1.83 ACRE PARCEL UTILIZING A SEPTIC SYSTEM**

The Board of Zoning Appeals shall hear, and approve or deny, all variances from development standards of the Zionsville Zoning Ordinance. A variance from development standards may be approved only upon written determination that:

- (a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;*
- (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;*
- (c) the strict application of the terms of the zoning ordinance will result in an unnecessary hardship in the use of the property;*

Proposed Findings of Fact are attached for the Board of Zoning Appeal's consideration.

**STAFF RECOMMENDATIONS**

Staff recommends approval of the design standards variance included in Docket # 2018-46-DSV, as filed.

**RECOMMENDATION MOTION**

I move that Docket # 2018-46-DSV design standards variance in order to permit the establishment of a 1.83 acre lot, which results in a deviation from the required minimum two (2) acre lot size, within the Low-Density Single-Family Residential Zoning District (R1) for the property located at 8090 E 550 South, be (Approved as filed, based upon the findings of fact / Denied/ Continued) as presented.

**PROCEDURAL NOTES**

As the parent tract was created prior to 1999, the division of the parcel is permissible to occur without the filing of a Plat with the Plan Commission, nor the conducting of a public hearing. Any future division of either the parent tract or the newly created parcel will require the involvement of the Plan Commission (and additional development standards variances).

Based on correspondence with the Boone County Health Department (Health Department) dated November 28, 2018, a location on the contemplated tract has been identified which supports an in-ground septic system. While the Health Department, based on the submitted information, is supportive of the location, deviating from the minimum lot size of two (2) acres could, in the future, result in the need to install a mound septic system in the event that adequate acreage is no longer

available to facilitate a conventional in-ground septic system (in the event that the second system is required to be installed to replace a failed system). Additionally, reducing parcels to less than the minimum lot size of two (2) acres has the potential to reduce opportunities for routing perimeter drains associated with septic systems. While neither of the points raised in this paragraph should be viewed individually as justifications to prohibit the contemplated division of the parent tract, the Petitioner should be fully aware that actions taken based on the granting of the variance could potentially foreclose future opportunities related to waste disposal and drainage that could have otherwise existed if the parent tract had not been divided.





Exhibit 2



January 1, 2019

Zionsville Town Hall  
1100 West Oak Street  
Zionsville, IN 46077

RE: **2018-46-DSV R. Pabst**

Dear Board of Zoning Appeals Members,

I am asking for a Development Standards Variance to do an administrative divide for the property located at 8090 E 550 S. My goal is to preserve the home that was built in the late 1800's and was our family home for over four decades. The proposed divide will create a 2-acre lot and the home will remain on the 1.833 acreage.

I have furnished a soil evaluation determining that a new septic can be placed on the 1.833 acre for the current home and a letter from the Boone County Health Department verifying the findings. It's my understanding that the property will conform to all other requirements needed for the divide.

I have included a photo of the home.



Thank you for your time and consideration concerning this matter.

Sincerely,

Reasa Pabst

18S697 EX-13

PROJECT NO. 1 OF 1 SHEET


SHEET NO. 1

VARIANCE EXHIBIT

REASA PARISH  
17, NW 1/4, SEC. 33, T18N, R2E,  
EAGLE TOWNSHIP, BOONE CO., IN

No.	Date	Revised
1	1/17/2019	Model west line of 2 acres
		Drawn by: JCH
		Checked by: JCH
		DATE: 1/16/2019
		SCALE: 1" = 20'

105 N. MERIDIAN ST.  
LAFAYETTE, IN 46052  
PHONE: (765) 402-5141  
INFO@HAYESBROOKSURVEYING.COM  
A SERVICE DESIGNED FOR THE  
OWNED SMALL BUSINESS




- NOTES:
- 1.) All physical improvements herein are shown as they were located in the field on November 20, 2018.
  - 2.) This exhibit is prepared based on a recent survey by this firm on the overall boundary of this property. This is not intended to represent an original or unaltered boundary survey, a more survey, or a surveyor's certificate report. No owner has been put on the 2.00 acre parcel shown herein.

Exhibit 4



# BOONE COUNTY HEALTH DEPARTMENT

116 W. WASHINGTON STREET • LEBANON, IN 46052

[www.boonecounty.in.gov/health](http://www.boonecounty.in.gov/health)

## ENVIRONMENTAL DIVISION

SUITE B201

(765) 483-4458

(765) 483-5243 FAX



BOONE COUNTY  
HEALTH DEPARTMENT

## NURSING & VITAL RECORDS DIVISION

SUITE B202

(765) 482-3942

(765) 483-4450 FAX

November 28, 2018

Reasa Pabst  
164 Olivette St.  
St. Johns, IL 32259

Dear Mrs. Pabst,

This office received a set of soil borings dated November 25, 2018 for the lot located at 8090 E 550 S in Zionsville. The soil borings were taken by Mark McClain. In general, the soil borings for this lot are suitable for an in-ground septic system as long as no soil disturbance occurs in the soil boring area between the date of when the borings were taken and the date of when the septic system is installed. Drainage will not be need needed for this lot due to the seasonal high-water table.

Sincerely yours,

Clayton Campbell  
Environmental Health Specialist



Natural Resources Conservation Service  
801 W Pearl St.  
Lebanon, IN 46052

January 22, 2019

Reasa Pabst  
8090 550 South  
Zionsville, IN 46077

COPY



RE: 8090 550 S, Zionsville Site Visit

Ms. Pabst and neighbors,

Thank you all for showing me and my co- worker Brian Daggy around your properties in the last week. As we all know, the areas where the properties meet is naturally wet and historically has been a drainage path for approximately 47 acres. Changes in the landscape change flow, water tables and can influence vegetation.

As proposed, a lot will be split and most likely sold for a home lot. This too will influence the flow and quantity of run off in the area. There are a lot of unknowns in the future so at this time no permanent plans or changes can be made to provide a solution to this.

In the last year Mr. Paddock has removed a fence, trees/shrubs, built a dam and installed a non-perforated tile in the area where the properties join. Most of this work was on the Stark property. Both Mr. Stark and Mr. Paddock are happy with the results and see no need for further improvement at this time. The water does stand in the area behind the dam but dries often enough to mow. If Mr. Stark no longer wishes to mow this area we did provide a few recommendations on possible plantings and can follow up on this at a later date.

The water enters the system through tile north of the Stark property and at his north property line through a riser. The tile has a relief on the west side of the drive which may allow water out of the tile during high flows and stand in this area/flow over the Paddock driveway. During normal flows the water is taken to the road ditch. Runoff flows through a culvert entering the natural drainage path that is located on the east side of the drive/Paddock's east property line. The neighbor to the east did not join us and I was told they had no issues with the property being split. Water also stands on the north and east property line of the Pabst property due to it being the lowest part of the landscape and poorly drained soils. We have attached a map of this and other materials for your reference.

We recommend providing our contact information to whomever purchases the property to allow a conversation on drainage issues that may occur and possible solutions. This conversation should also occur with any contractors and builders on this property as plan are formed. Diversions, rain gardens, wildlife plantings and tile are all possibilities.

Sincerely,

Angela Garrison  
District Conservationist  
Natural Resources Conservation Service

Brian Daggy  
Resource Conservationist  
Boone County Soil and Water District





1 inch = 676 feet

## Soil Map

Exhibit 6



## Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
CudA	Crosby silt loam, fine-loamy subsoil, 0 to 2 percent slopes	0.8	6.3%
MnpB2	Miami silt loam, 2 to 6 percent slopes, eroded	7.2	59.2%
MnpD2	Miami silt loam, 12 to 18 percent slopes, eroded	0.0	0.0%
ThrA	Treaty silty clay loam, 0 to 1 percent slopes	4.2	34.5%
Totals for Area of Interest		12.1	100.0%

Dwellings Without Basements—Boone County, Indiana  
(Pabst)



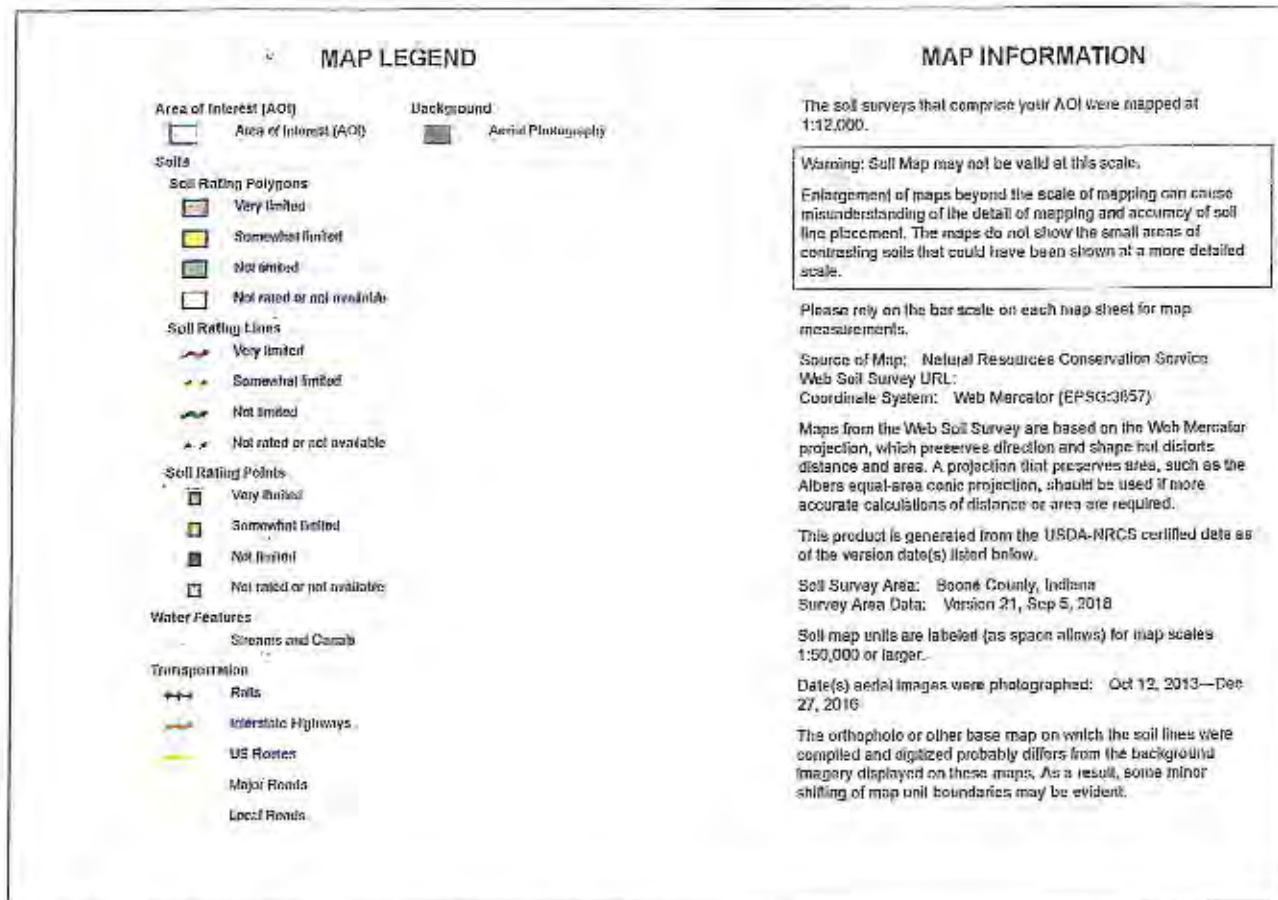
Natural Resources  
Conservation Service

Web Soil Survey  
National Cooperative Soil Survey

1/18/2019  
Page 1 of 8

Exhibit 6

Dwellings Without Basements—Boone County, Indiana  
(Pabst)





## Dwellings Without Basements

Map unit symbol	Map unit name	Rating	Component name (percent)	Rating reasons (numeric values)	Acres in AOI	Percent of AOI
CudA	Crosby silt loam, fine-loamy subsoil, 0 to 2 percent slopes	Very limited	Crosby (93%)	Depth to saturated zone (1.00)	0.6	6.3%
			Treaty, drained (2%)	Ponding (1.00)		
				Depth to saturated zone (1.00)		
				Shrink-swell (0.07)		
MnpB2	Miami silt loam, 2 to 6 percent slopes, eroded	Somewhat limited	Miami, eroded (85%)	Shrink-swell (0.10)	7.2	59.2%
			Williamstown (5%)	Depth to saturated zone (0.98)		
				Shrink-swell (0.16)		
MnpD2	Miami silt loam, 12 to 18 percent slopes, eroded	Very limited	Miami, eroded (85%)	Slope (1.00)	0.0	0.0%
				Slope (1.00)		
			Rainsville, eroded (10%)	Shrink-swell (0.50)		
				Depth to saturated zone (1.00)		
			Crosby (5%)	Shrink-swell (0.01)		
ThrA	Treaty silty clay loam, 0 to 1 percent slopes	Very limited	Treaty, drained (80%)	Ponding (1.00)	4.2	34.5%
				Depth to saturated zone (1.00)		
				Shrink-swell (0.57)		
			Pella, drained (5%)	Ponding (1.00)		
				Depth to saturated zone (1.00)		
				Shrink-swell (0.09)		
			Rensselaer, drained (5%)	Ponding (1.00)		
				Depth to saturated zone (1.00)		



Map unit symbol	Map unit name	Rating	Component name (percent)	Rating reasons (numeric values)	Acres in AOI	Percent of AOI
				Shrink-swell (0.05)		
			Crosby (5%)	Depth to saturated zone (1.00)		
			Southwest, drained (5%)	Ponding (1.00)		
				Depth to saturated zone (1.00)		
				Shrink-swell (0.14)		
Totals for Area of Interest					12.1	100.0%

Rating	Acres in AOI	Percent of AOI
Somewhat limited	7.2	59.2%
Very limited	4.9	40.8%
Totals for Area of Interest	12.1	100.0%

## Description

Dwellings are single-family houses of three stories or less. For dwellings without basements, the foundation is assumed to consist of spread footings of reinforced concrete built on undisturbed soil at a depth of 2 feet or at the depth of maximum frost penetration, whichever is deeper.

The ratings for dwellings are based on the soil properties that affect the capacity of the soil to support a load without movement and on the properties that affect excavation and construction costs. The properties that affect the load-supporting capacity include depth to a water table, ponding, flooding, subsidence, linear extensibility (shrink-swell potential), and compressibility. Compressibility is inferred from the Unified classification of the soil. The properties that affect the ease and amount of excavation include depth to a water table, ponding, flooding, slope, depth to bedrock or a cemented pan, hardness of bedrock or a cemented pan, and the amount and size of rock fragments.

The ratings are both verbal and numerical. Rating class terms indicate the extent to which the soils are limited by all of the soil features that affect the specified use. "Not limited" indicates that the soil has features that are very favorable for the specified use. Good performance and very low maintenance can be expected. "Somewhat limited" indicates that the soil has features that are moderately favorable for the specified use. The limitations can be overcome or minimized by special planning, design, or installation. Fair performance and moderate maintenance can be expected. "Very limited" indicates that the soil has one or more features that are unfavorable for the specified use. The limitations generally cannot be overcome without major soil reclamation, special design, or expensive installation procedures. Poor performance and high maintenance can be expected.

Numerical ratings indicate the severity of individual limitations. The ratings are shown as decimal fractions ranging from 0.01 to 1.00. They indicate gradations between the point at which a soil feature has the greatest negative impact on the use (1.00) and the point at which the soil feature is not a limitation (0.00).

The map unit components listed for each map unit in the accompanying Summary by Map Unit table in Web Soil Survey or the Aggregation Report in Soil Data Viewer are determined by the aggregation method chosen. An aggregated rating class is shown for each map unit. The components listed for each map unit are only those that have the same rating class as listed for the map unit. The percent composition of each component in a particular map unit is presented to help the user better understand the percentage of each map unit that has the rating presented.

Other components with different ratings may be present in each map unit. The ratings for all components, regardless of the map unit aggregated rating, can be viewed by generating the equivalent report from the Soil Reports tab in Web Soil Survey or from the Soil Data Mart site. Onsite investigation may be needed to validate these interpretations and to confirm the identity of the soil on a given site.

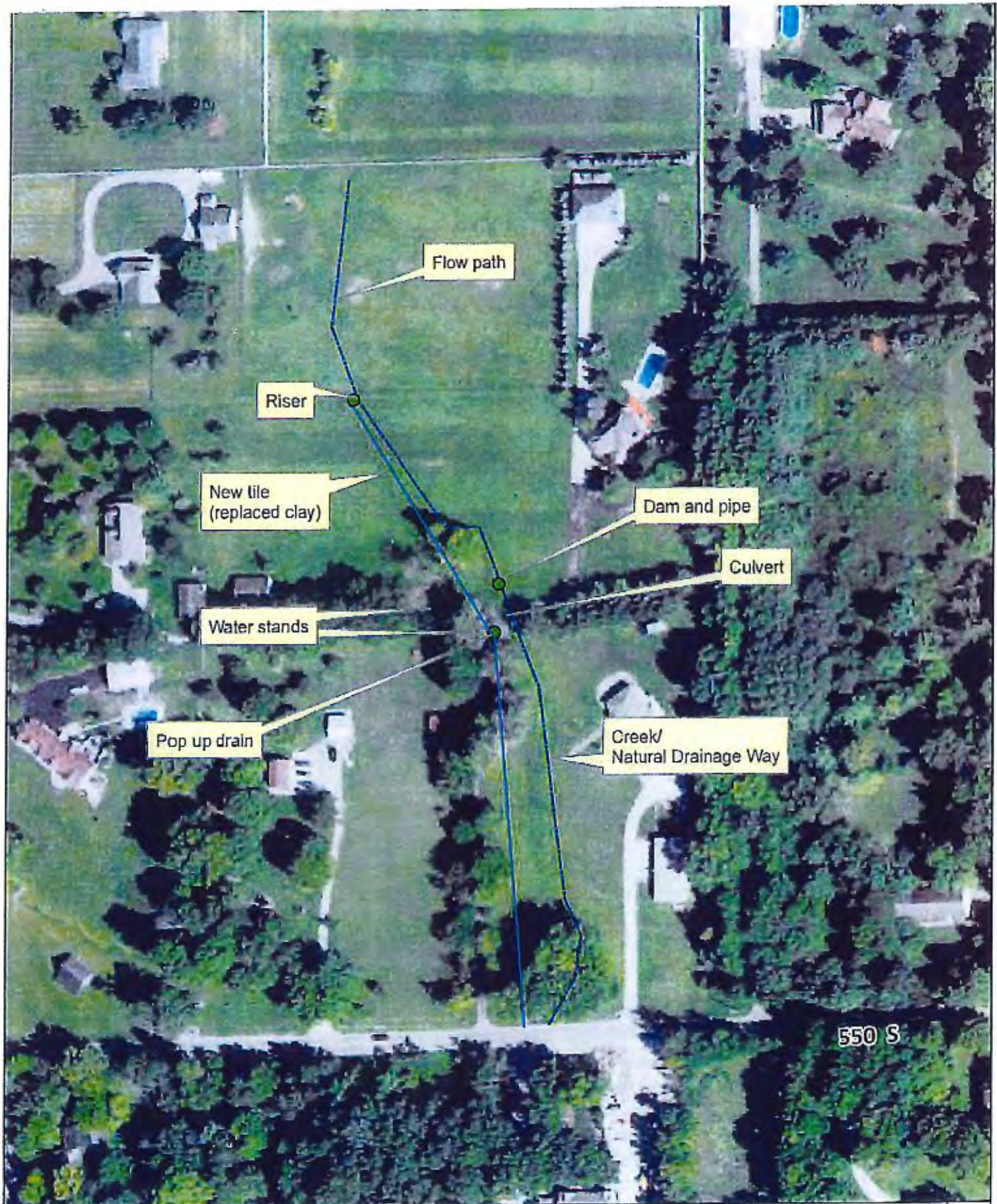
## Rating Options

*Aggregation Method:* Dominant Condition

*Component Percent Cutoff:* None Specified

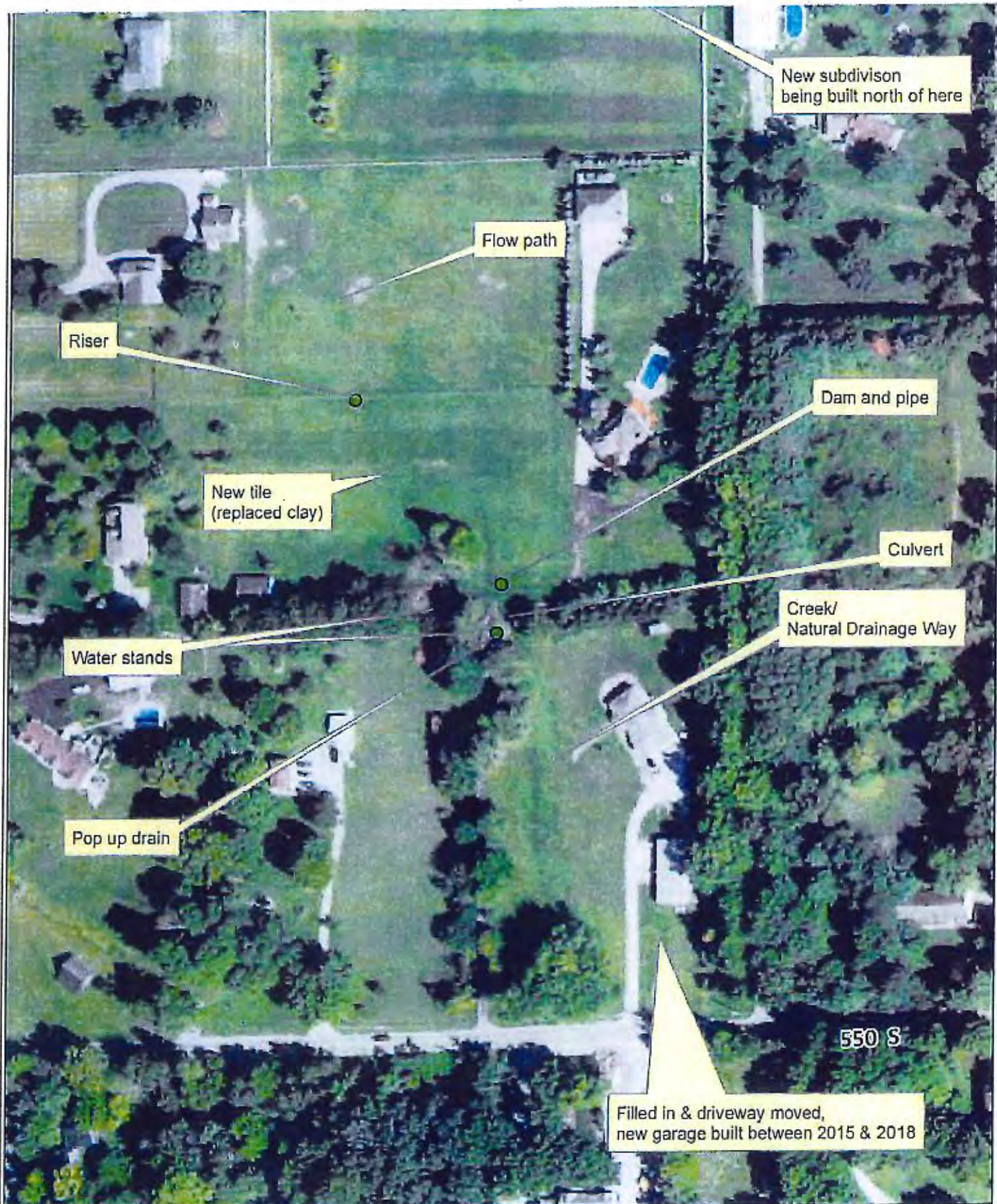
*Tie-break Rule:* Higher





1 inch = 489 feet





1 inch = 489 feet

2015  
Referance map

Exhibit 6





Exhibit 6



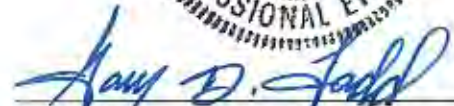
# **STORMWATER DRAINAGE EVALUATION**

**PREPARED FOR**

**REASA PABST  
8090 E. 550 S.  
ZIONSVILLE, IN 46077**

**MARCH 26, 2019  
REVISED MAY 2, 2019**



  
Certified By: Gary D. Ladd, P.E.  
PE No. 60019630

**Prepared By:**

**Ladd Engineering, Inc.  
1127 Brookside Drive  
Lebanon, IN 46052  
765-482-9219**

## **1.1 Summary**

The Owner of the residence located at 8090 E. 550 S., Zionsville, Indiana is desirous of splitting an approximately 3.83-acre property into two lots, one consisting of 1.83 acres (Lot #1) and one at 2 acres (Lot #2). Based on information obtained the existing house, located on the proposed 1.83-acre lot will remain but the barn and corn crib will be removed.

It is our understanding that adjacent properties have expressed concern about stormwater drainage issues worsening as a result of future development on the proposed 2-acre property. This report provides information on the existing and proposed drainage.

Refer to Exhibit 1 for a Vicinity Map.

## **1.2 Existing Conditions**

The existing stormwater drainage from the Pabst property runs off the property in several different directions. Refer to Exhibit 2 for a contour map depicting the direction of the stormwater runoff, as well as other existing stormwater runoff related information. The contours on Exhibit 2 are from the Indiana Office of Technology Statewide Lidar. Refer to Appendix A for photographs of the site.

During a visit to the site, I observed the following:

- A wet area existed at the northeast corner of the Pabst property. The wet area is sloped but the soil appeared saturated. Per the soil's manual, the soil in this northeast corner is Treaty silt clay loam, 0 to 1 percent slopes, which is very limited for drainage. This may explain why the soil acts like a sponge and appears saturated.
- The neighbor to the northeast (Paddock property) had installed a berm, culvert, and an underground tile with area drain pipe in an effort to divert some of the runoff away from the wet area (see Exhibit 2 for an outline of the wet area and photograph on page 4 in Appendix A). It is unknown as to what design storm these pipes and culverts are capable of handling.
- There is an underground 24-inch diameter corrugated metal pipe (CMP) beneath the CR 550 S. roadside ditch that runs the entire length of the Pabst property and across the driveway for the Paddock residence (see Exhibit 2)
- All of the stormwater runoff in the area drains to an existing 68-inch x 52-inch CMP that crosses CR 550 S. near the southwest corner of the Pabst property.

Exhibit 2 shows drainage subareas A, B, C and D.

Subarea A consists of approximately 0.35 acres, none of which is impervious surface, of the Pabst property that flows towards the wet area in the vicinity of the northeast corner.



Subarea B consists of approximately 0.94 acres of the Pabst property, of which none is considered impervious since the existing barn and corn crib are being removed. Subarea B flows east towards the Paddock driveway then into the drainage ditch near the east side of the Paddock property.

Subarea C consists of approximately 0.62 acres, of which 0.13 acres is of impervious surfaces. A portion of Subarea C also flows towards the Paddock property driveway then to the ditch near the east side of the Paddock property, and some of it flows to the southeast towards the southeast corner of the Pabst property.

Subarea D consists of approximately 1.92 acres, most of which is impervious surface, and it flows south towards CR 550 S.

It is apparent that the Pabst property has not been altered, and all subareas drain towards the natural drainageway.

I met with the neighbor (Jim Paddock), located to the east of the Pabst property on April 22, 2019 to discuss his drainage concerns. A copy of the summary of this meeting is provided as Exhibit 3.

### **1.3 Recommendations**

The following recommendations are provided:

- Whenever a residential house is built, install 6-inch diameter perimeter drains around the house to connect roof downspouts into and connect to the existing buried 24-inch CMP, located on the north side of CR 550 S.
- That no additional stormwater runoff be directed towards the north side of the Pabst property
- Should a 4-inch perimeter drain be required for an on-site future septic system, then connect it to the proposed 6-inch drain pipe flowing south to the 24-inch CMP
- Whenever Lot #2 is developed, install either a 4' flat bottom swale with 4:1 side slope, or an infiltration trench. Refer to Exhibit's 4 and 5 for a plan and detail of each alternative.



Exhibit 7

**LADD ENGINEERING, INC.**  
**LEBANON, INDIANA**

**PABST PROPERTY**  
STORMWATER DRAINAGE  
EVALUATION

**EXHIBIT 1**  
**LOCATION MAP**



Pahst Property  
STORMWATER DRAINAGE  
EVALUATION

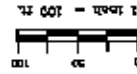


EXHIBIT  
2

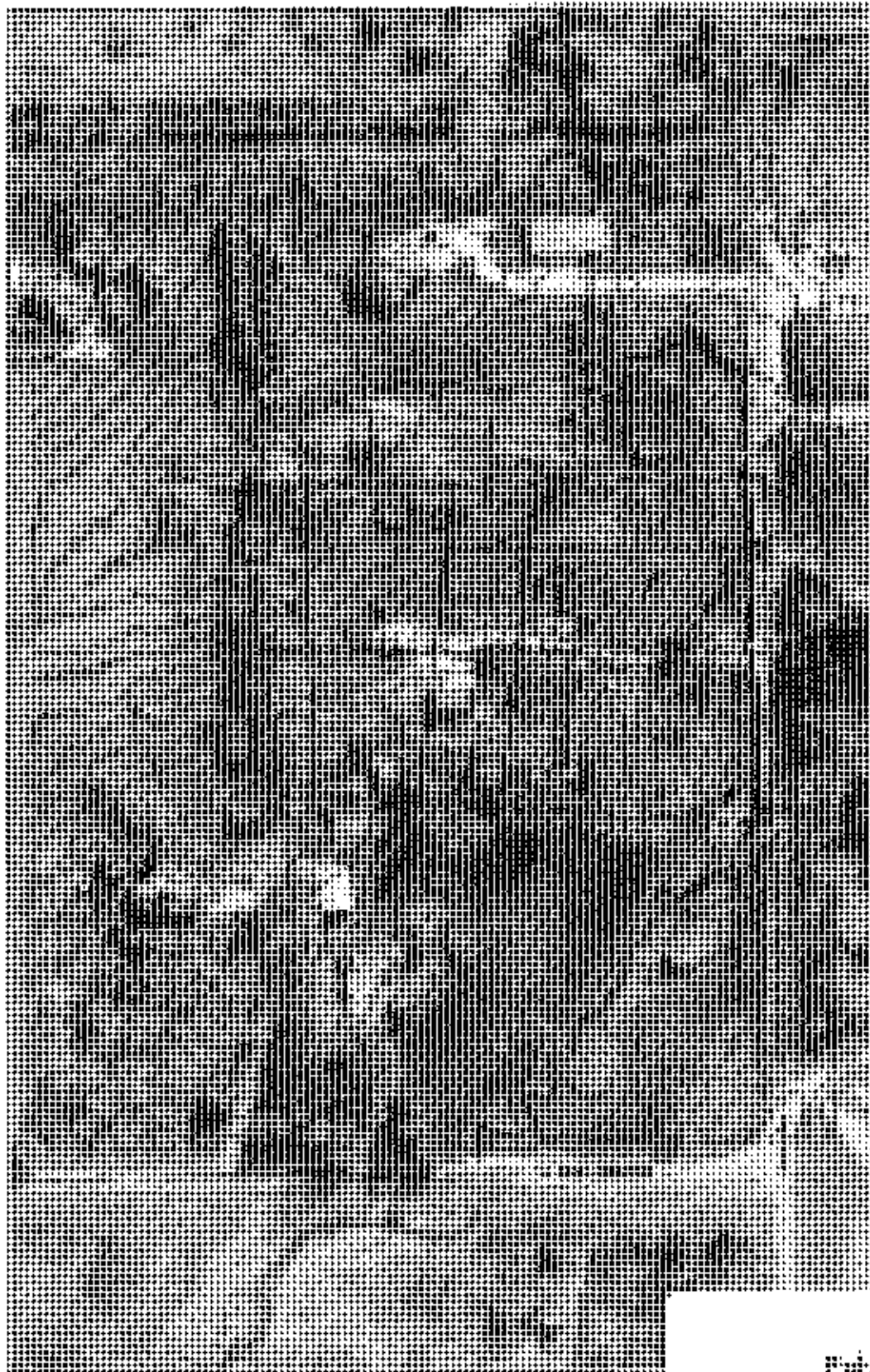


Exhibit 7



**EXHIBIT 3**  
**MEETING SUMMARY**

I met with Mr. Paddock on April 22, 2019 at 9:00 AM. Also, a neighbor (Bret) joined us after a few minutes. Mr. Paddock indicated that the development to the north of his home had added to his drainage issue. Mr. Paddock explained that he had replaced a tile across his property with a 8" and that he reconnected it to the existing clay tile southeast towards the ditch that the tile outlets into. He also indicated that he is very concerned about someone building a house on the Pabst property and having additional stormwater runoff coming onto his property and creating more problems similar to the development to the north. Mr. Paddock indicated that there was a swale on the west side of his driveway but over the past several years dirt has washed off the Pabst property into the ditch filling it in. Mr. Paddock expressed concern about water overflowing the gutters at times and not being routed into the proposed house perimeter drain. Mr. Paddock and his neighbor mentioned that a ditch to intercept the water on the Pabst property would appease them. I indicated that I had one proposed at one time and showed them the marked-up drawing. Mr. Paddock is also adamant that the septic system for a new house be installed to the south so there is not drainage from it going towards his property. We discussed that soils testing was completed to install a new septic system in the vicinity of the existing one north of the Pabst house and that the groundwater was found to be >60" below grade and that a perimeter drain was not required. He indicated that he would fight not installing a perimeter drain around the septic, as he noticed a brown colored water in the soil when excavating for his drainage work. I indicated that this would be a County Board of Health issue.



Rabst Property  
STORMWATER DRAINAGE  
EVALUATION

1 inch = 100 ft.  
0 50 100

EXHIBIT  
4



Exhibit 7



Pabst Property  
STORMWATER DRAINAGE  
EVALUATION

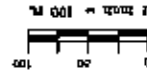
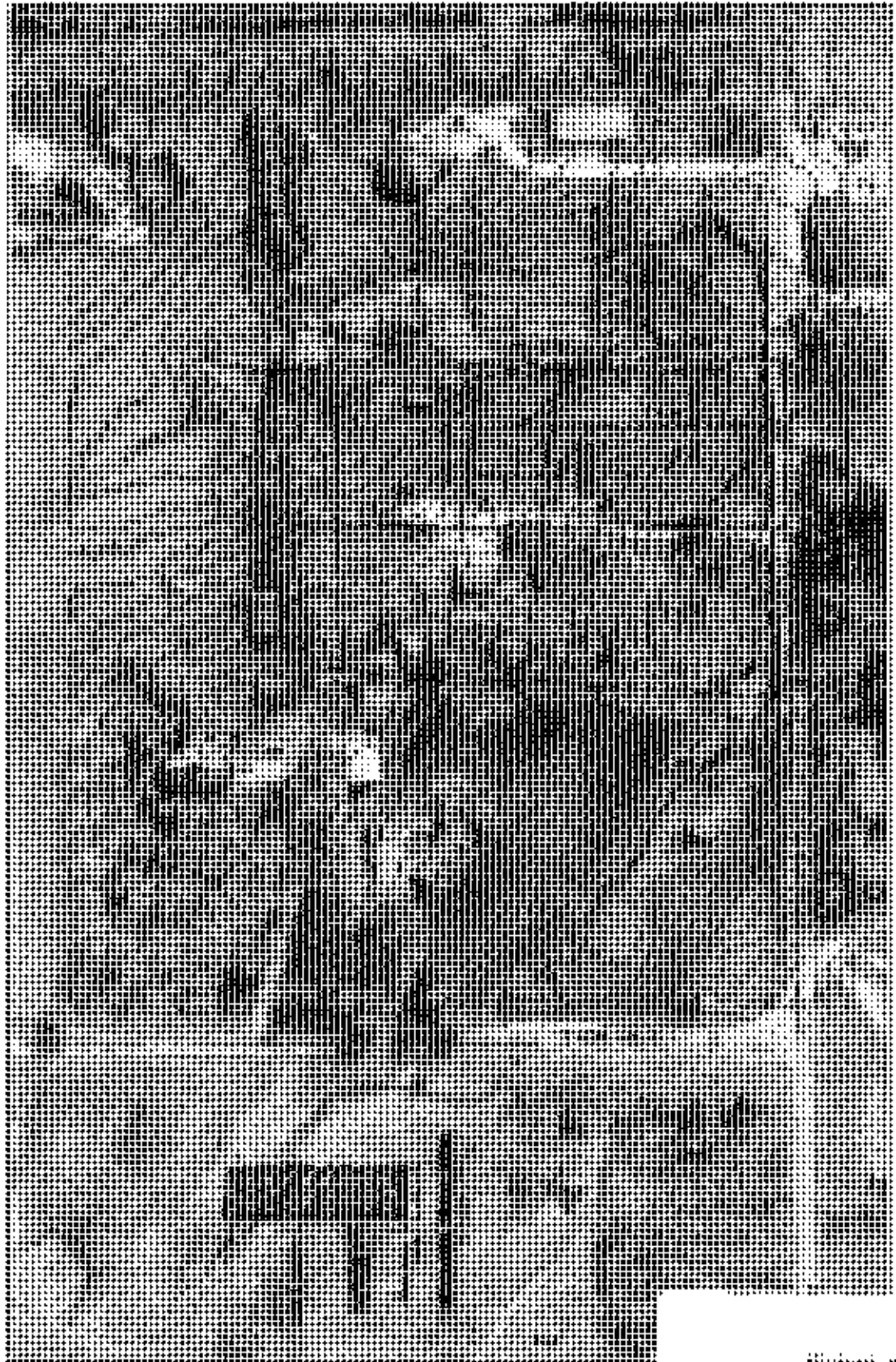


EXHIBIT  
5





**APPENDIX A**  
**PHOTOGRAPHS**



Looking northeast towards Paddack House – Note berm



Looking northeast towards Paddack House – Low area near  
Paddack driveway, under trees





In Pabst front yard looking west towards CR 550 S. culvert crossing – 24" CMP is under roadside ditch



In Pabst front yard looking towards CR 550 S. @ east edge of driveway – note roadside ditch – 24" CMP is beneath ditch





Drainage inlet just east of Pabst driveway over top of 24" CMP  
in ditch line



In Pabst back yard looking west – note slope of property from  
west to east





Drainage inlet just northeast of northeast corner of Pabst property

**ZIONSVILLE BOARD OF ZONING APPEALS  
PETITION NO. 2018-46-DSV**

**COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF  
REAL ESTATE VOLUNTARILY MADE IN CONNECTION WITH  
DEVELOPMENT STANDARDS VARIANCE**

In accordance with IND. CODE §§ 36-7-4-918.5 and 36-7-4-1015, Reasa Pabst & Gregg Roberts (hereinafter referenced as "Owner") represents and warrants that Owner is the owner of certain real estate located in the Town of Zionsville, Boone County, Indiana, which real estate is described in **Exhibit 1** attached hereto (the "Real Estate") and is commonly known as 8090 E. 550 S., Zionsville, Indiana. Owner further represents and warrants that Owner has the authority to, and does hereby voluntarily make, the following **COMMITMENTS** concerning the use and development of the Real Estate, including any portion thereof.

**STATEMENT OF COMMITMENTS**

Owner voluntarily agrees and commits that approval by the Zionsville Board of Zoning Appeals of petition filed as Docket No. 2018-46-DSV requesting approval for the establishment of a 1.83+/- acre lot in the R1 Rural Low-Density Single-Family Residential Zoning District, the Development Standards Variance, shall be subject to the following **COMMITMENTS**:

1. **Subject Property.** The subject property is described in the attached **Exhibit 1** comprising of 3.83 +/- acres of land, commonly known as 8090 E. 550 S., Zionsville, Indiana. Owner intends to improve and divide the real property into two lots, west to east referred to as Lot #1 (1.83 acres) and Lot #2 (2.0 acres) as detailed in **Exhibit 2**. These commitments shall apply only to Lot #2, see attached **Exhibit 3**.
2. **Structures.** Owner commits to remove the existing 'barn' and 'shed' from Lot #2, as depicted in **Exhibit 2** within ninety (90) days of the grant of this variance. No certificate of occupancy shall be issued for Lot #2 until the existing barn and shed are removed.
3. **Drainage Improvements.** Owner commits to the following Development/Use Restriction with respect to the construction of a residential structure located on Lot #2:
  - a. Any residential structure constructed on Lot #2 shall have a 6" (or greater) perimeter drain installed for the connection of roof downspouts and shall outfall to the southern portion of Lot #2 and generally into the common drainage swale/24" corrugated metal pipe (or the like) located along CR 550 S consistent with commercially reasonable construction standards and engineering practices.



- b. All septic systems installed on Lot #2 will utilize a 4" (or greater) perimeter drain connecting to the residential perimeter drain if required (described in section 3a.) or will drain such that the outfall is to the southern portion of Lot #2 and generally into the common drainage swale located along CR 550 S consistent with commercially reasonable construction standards and engineering practices.
- c. That generally no additional (beyond what exists at the time of approval) stormwater runoff from Lot #2 be directed towards the northern portion of subject Lot #2 onto adjacent properties.
- d. That generally no additional (beyond what exists at the time of approval) stormwater runoff from Lot #2 be directed towards the eastern portion of subject Lot #2 onto adjacent properties.
- e. That prior to the issuance of a certificate of occupancy for Lot #2, one of three drainage improvements shall be installed individually or in combination at the property owner's determination:
  - i. a drainage swale along the eastern portion of lot #2 (see **Exhibit 4**); and/or
  - ii. an infiltration trench along the eastern portion of lot #2 (see **Exhibit 5**).

The intent of this section 3.e. is to provide engineered examples of methods to redirect a portion of the surface water away from the parcel adjoining lot #2 to the east.

- f. The Drainage Improvement detailed in items 3. a-e are independent of any state or local Building permit or Building code requirements.

The **COMMITMENTS** contained herein shall be effective as of the Zionsville Board of Zoning Appeals approval of the petition docketed as Docket No. 2018-46-DSV and shall continue in effect until modified or terminated in conformance with the requirements herein and/or applicable statutory standards.

These **COMMITMENTS** shall be promptly executed and recorded by Owner in the Office of the Boone County Recorder, Boone County, Indiana, within sixty (60) days after the Zionsville Board of Zoning Appeals approved the petition for Development Standards Variance in Docket No. 2018-46-DVS and shall thereafter be considered a covenant running with the land described herein as the Real Estate, including any portion thereof.

These **COMMITMENTS** shall be binding on Owner, subsequent owners of the Real Estate or any portion thereof, and on any and all other persons or entities acquiring an interest in any portion of the Real Estate (hereinafter collectively "Owners"). Owner shall have an affirmative duty to inform any third parties with whom Owner negotiates for a possible sale, lease,

assignment, mortgage, or transfer of the Real Estate, or any portion thereof, of the existence of these **COMMITMENTS**. In the event any sale, lease, assignment, mortgage, or transfer occurs, Owner shall ensure that a copy of these **COMMITMENTS** is incorporated into any such written agreement with the third party. If Owner fails to comply with the terms of this paragraph and the third party fails to perform and/or comply with these **COMMITMENTS**, the Town of Zionsville shall be entitled to recover from Owner and from each such third party, jointly and/or severally, any and all damages which arise from this failure and shall also be entitled to injunctive relief to terminate any non-compliance herewith.

These **COMMITMENTS** may be modified or terminated by a decision of the Zionsville Board of Zoning Appeals made after a public hearing for which proper notice is given, including hearings for other land uses or zoning approvals involving the Real Estate or any portion thereof.

These **COMMITMENTS** may be enforced, jointly and/or severally, by the Town of Zionsville Board of Zoning Appeals, the Director of Planning for the Town of Zionsville (or a position created for the Town of Zionsville which is analogous thereto), the Town (including any successor city or municipality), and/or owners of any parcel of ground adjoining or adjacent to the Real Estate. Owner and all Owners shall be obligated hereunder to indemnify the Town of Zionsville Board of Zoning Appeals and the Town (including a successor city or municipality), and to hold said entities and their respective authorized representatives, including the Director of Planning for the Town, harmless from any liability, expense (including reasonable attorney fees and court costs), costs, or damages which result from the failure to perform Owner's and/or Owners' obligations under the terms and conditions of these **COMMITMENTS**. Throughout these **COMMITMENTS** any reference to "Town" or "Town of Zionsville" shall also include any successor city, municipality, or other governmental body having land use, planning, and/or zoning jurisdiction over the Real Estate.

In the event it becomes necessary to enforce these **COMMITMENTS** in a court of competent jurisdiction, and Owner and/or any subsequent Owners of the Real Estate are found to be in violation of these **COMMITMENTS**, all such violators shall pay all reasonable costs and expenses the Town and the Town's Board of Zoning Appeals and other authorized representative(s) incur in the enforcement of these **COMMITMENTS**, including reasonable attorney fees, expert witness fees, and court costs.

Owner and all subsequent Owners of all or a portion of the Real Estate shall be obligated hereunder, jointly and/or severally, to indemnify the Town of Zionsville Board of Zoning Appeals and/or the Town and hold said entities and their respective authorized representatives, including the Director of Planning for the Town, harmless from any and all liability, expense (including reasonable attorney fees and court costs), costs, or damages which result from the failure to perform Owner's and/or Owners' obligations hereunder and/or to comply with the terms and conditions of these **COMMITMENTS**.

Any controversy arising under or in relation to these **COMMITMENTS** shall be litigated exclusively in the applicable state courts of Indiana without regard to conflicts of law principles. Owner irrevocably consents, for itself and all subsequent Owners, to service, jurisdiction, and venue in such state courts for any and all such litigation and hereby waives any other venue to which Owner or subsequent Owners might be entitled by virtue of domicile, habitual residence, or otherwise.

Owner shall be responsible, at Owner's expense, for recording these **COMMITMENTS** in the Office of the Boone County Recorder, Boone County, Indiana, within sixty (60) days after the Zionsville Board of Zoning Appeals approved the petition for Development Standards Variance in Docket No. 2018-46-DVS, and shall promptly provide the Planning Department of the Town of Zionsville with a copy of such recording as a condition precedent for the Development Standards Variance approved in said docket to be applicable to the Real Estate and issuance of any Improvement Location Permit, Building Permit, and/or Certificate of Occupancy for the Real Estate. The **COMMITMENTS** shall be considered a covenant running with the Real Estate, including any portion thereof.

The undersigned, by executing these **COMMITMENTS**, represents and warrants that at the time of executing this document, Reasa Pabst & Gregg Roberts are the sole owners of the Real Estate, that execution of these **COMMITMENTS** is being voluntarily undertaken, has been duly authorized on behalf of Owner, and requires no additional authorization on behalf of said limited liability company or of a third party, and that these **COMMITMENTS** shall be binding upon Reasa Pabst & Gregg Roberts as to all the particulars herein and shall be considered a **COVENANT** running with the land described herein as the Real Estate, including any portion thereof.

IN WITNESS WHEREOF, Reasa Pabst & Gregg Roberts, as the sole owners of the Real Estate, has executed these **COMMITMENTS** this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

OWNER: Reasa Pabst & Gregg Roberts

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

[NOTARY PAGE TO FOLLOW]



STATE OF INDIANA                    )  
  ) SS:  
COUNTY OF BOONE                    )

Before me, a Notary Public in and for said County and State, personally appeared Reasa Pabst & Gregg Roberts the owner of the Real Estate described above, who acknowledged the execution of the foregoing and who, having been duly sworn, stated that any and all representations and/or warranties therein contained are true.

Witness my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Signature: \_\_\_\_\_ Printed \_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_ County of Residence: \_\_\_\_\_

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law. Name: Jeffrey S. Jacob, esq

**This instrument prepared by: Jeffrey S. Jacob, Hackman Hulett LLP, 1620 West Oak Street, Suite 200 Zionsville, Indiana 46077, (317) 344-2111**

\_\_\_\_\_

**EXHIBIT 1**

**(General 3.833 Legal Description)**

A part of the Northwest Quarter of Section 33, Township 18 North, Range 2 East in Boone County, Indiana, more particularly described as follows:

Beginning at a point on the South line of aforesaid Quarter Section, said point being 338.60 feet East of the Southwest corner thereof; continue thence Easterly along and with said South line 349.45 feet, thence Northwardly deflecting left 88 degrees 50 minutes along an existing fence line a distance of 525.22 feet to an existing fence corner; thence in a Westwardly direction deflecting left 97 degrees 05 minutes along an existing fence line a distance of 310.10 feet; thence Southwardly deflecting left 78 degrees 06 minutes a distance of 495.84 feet to the Place of Beginning, containing 3.833 acres, more or less, but subject to legal highways, rights-of-way and easements.

Located in Eagle Township, Boone County, Indiana.

**EXHIBIT 2**

**(Site Plan)**



**EXHIBIT 3**

**(Legal Description for 2.0 acre, Lot #2)**

**EXHIBIT 4**

**(Ditch Option)**

**EXHIBIT 5**

**(Infiltration Trench Option)**



**TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS  
BOONE COUNTY, INDIANA**

**PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS**

**FINDINGS OF FACT**

1. The grant (**will / will not**) be injurious to the public health, safety, morals, and general welfare of the community because:

Attached is a letter from the Boone County Health department and a certified soil test verifying that a new septic system can be safely placed in behind the home on the 1.833 acres. The property meets all other county requirements for the division. A permit has also been secured for removal of the pole barn located close to the division line on the survey.

2. The use or value of the area adjacent to the property included in the variance (**will / will not**) be affected in a substantially adverse manner because:

The existing home will remain on 1.833 acres and the division will create the vacant lot size in compliance with the zoning of a 2 acre minimum.

3. Strict application of the terms of the zoning ordinance (**will / will not**) result in unnecessary hardships in the use of the property because:

A hardship will be created with the one time administrative divide of the property causing non-compliance for the zoning ordinance of the existing home.

**DECISION**

It is therefore the decision of this body that this VARIANCE petition is APPROVED/DENIED.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_.



**Petition Number:** 2019-12-SE

**Subject Site Address:** 1153 S 700 East, Whitestown, IN 46075

**Petitioner:** Erin M. Jackson

**Representative:** Erin M. Jackson

**Request:** Petition for Special Exception to allow for a new residential building in an (AG) Agricultural Zoning District

**Current Zoning:** Agricultural District (Rural)

**Current Land Use:** Agricultural

**Approximate Acreage:** 5.86 acres

**Zoning History:** Consolidated into the Town of Zionsville's jurisdiction in 2010. No prior petitions are known.

**Exhibits:** Exhibit 1 – Staff Report  
Exhibit 2 – Aerial / Location Map  
Exhibit 3 – Petitioner's Site Plan  
Exhibit 4 – Findings of Fact

**Staff Presenter:** Wayne DeLong, AICP, CPM

### **PETITION HISTORY**

This Petition will receive a public hearing at the May 14, 2019, Board of Zoning Appeals meeting.

### **PROPERTY HISTORY**

This property is comprised of 5.86 acres, with the majority presently being unimproved tillable farmland. The acreage associated with this petition has historically been utilized for agricultural purposes under the Boone County Area Planning jurisdiction. In 2010 this parcel came into Zionsville's jurisdiction with the 2010 consolidation of Union Township. As of the writing of this report, Staff is not aware of any prior approvals being considered and granted by the Boone County Area Plan Commission or Board of Zoning Appeals related to this property.

### **ANALYSIS**

Based on the applicant's interest in constructing a single-family dwelling on acreage zoned AG, the applicant is required to request a Special Exception. The purpose of the AG agricultural district is to encourage agricultural operations while allowing for limited residential development. In the opinion of Staff, the Petition represents a limited presence of residential development in the AG district (and is consistent with the intermittent development pattern on the south side of County Road 100 South as well as the east side of 700 East).

### **RIGHT TO FARM / PROXIMITY TO AIRPORT**

As stated in the Zoning Ordinance, the Applicant for a Special Exception acknowledges and/or agrees that agricultural uses are permitted in the surrounding area, no agricultural or agri-business operation in the area shall be or become a nuisance, and to not object to the continuation of any such agricultural or agri-business operation in the surrounding area as long as such operation does not constitute a nuisance. This acknowledgement will be required to be reduced to writing as a Right to Farm Commitment recorded with the Boone County Recorder's Office as a part of the Petition process.

And, while the north-south runway of the Indianapolis Executive Airport is within approximately 4.25 miles of the subject site, the Zoning Ordinance does not require any special notice or restrictions associated with the proposed dwelling's proximity to the facility. It is mentioned here in this report only as a courtesy to the Petitioner. Further, Indiana Code stipulates regulatory standards, in specific cases, related to noise sensitive construction and height limitations (by example) per Sections 8-21-10-2 and 8-21-10-3. For additional information on this topic, the Petition should contact the Indiana Department of Transportation, Airport Section.

### **PROCEDURAL — CONSIDERATION OF A SPECIAL EXCEPTION PETITION SEEKING APPROVAL FOR THE LOCATION OF A DWELLING IN THE AGRICULTURAL DISTRICT**

The Board of Zoning Appeals shall hear, and approve or deny, all requests for Special Exception requests as provided for by the Zionsville Zoning Ordinance. A Special Exception may be approved only upon written determination that:



- (a) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;*
- (b) The proposed use will not injure or adversely affect the adjacent area or property values therein; and*
- (c) the proposed use will be consistent with the character of the District, land uses authorized therein and the Town of Zionsville Comprehensive Plan.*

Proposed Findings of Fact are attached for the Board of Zoning Appeal's consideration.

#### **STAFF RECOMMENDATIONS**

Staff recommends approval of the special exception Petition included in Docket #2019-12-SE.

#### **RECOMMENDATION MOTION**

I move that Docket #2019-12-SE Special Exception Petition in the Agricultural District for the property located at 1153 S 700 East be (Approved based upon the staff report and the proposed findings / Denied / Continued) as presented (If approved, it shall be required that the Petitioner execute the Right-to-Farm commitment documentation).

#### **PROCEDURAL NOTE**

Within the AG zoning, properties which adjoin agricultural land must maintain a 40-foot buffer zone around the perimeter of the property (primarily when adjacent to agricultural fields). The intent of the buffer yard is to separate buildings (but not fencing) from agricultural fields, with the Building Commissioner having the authority to approve reductions in the dimensions of the buffer yard on a case by case basis.

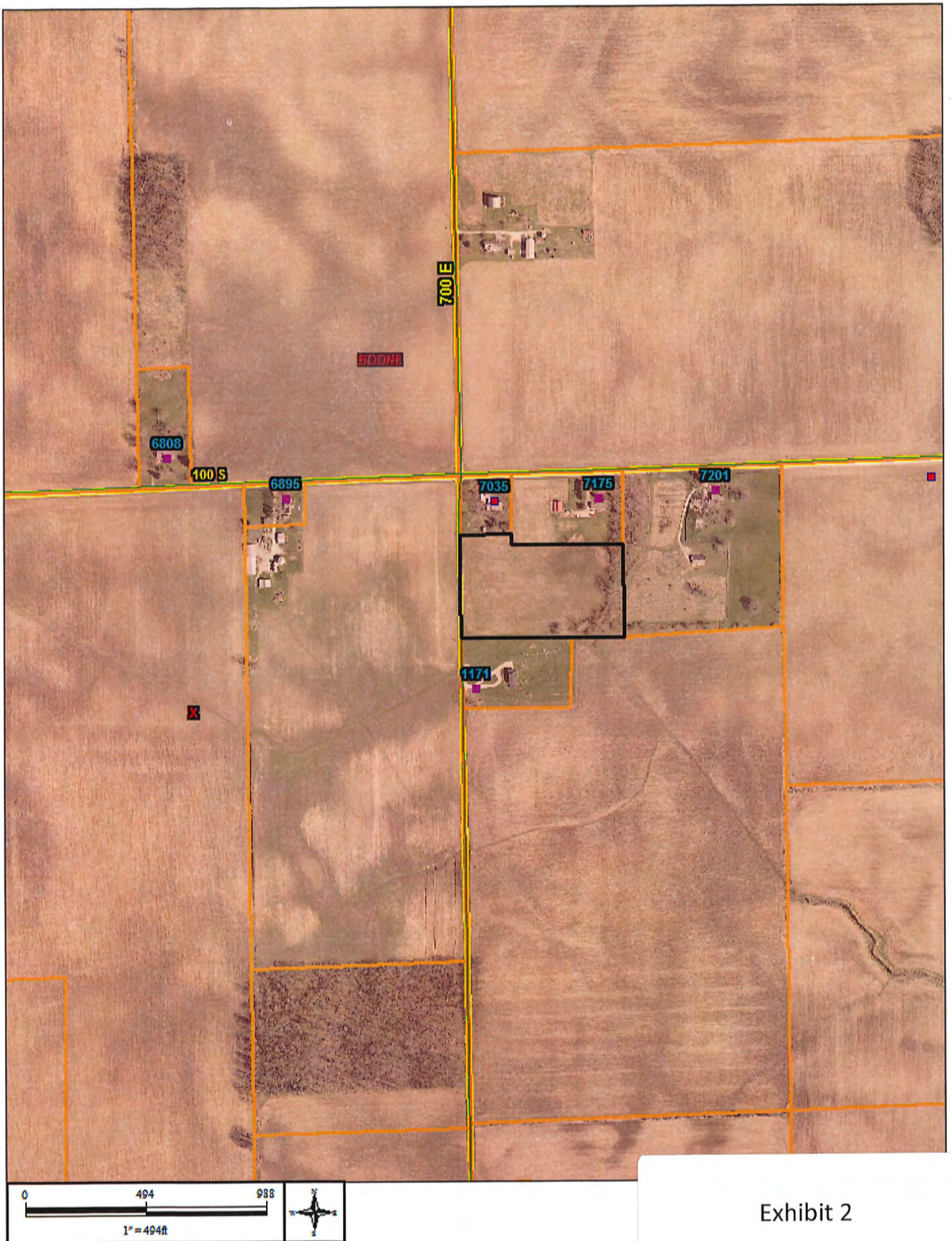


Exhibit 2







Petition No.: 2019-12-SE  
E. JACKSON

**TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS  
BOONE COUNTY, INDIANA**

**PETITION FOR SPECIAL EXCEPTION**

**FINDINGS OF FACT**

1. The proposed use (will / will not) be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare; *the proposed use is to build a house in compliance with all standards and will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare.*
2. The proposed use (will / will not) injure or adversely affect the adjacent area or property values therein; and *most adjacent properties have houses already. As a result of the proposed use, the property values should increase. It will not injure or adversely affect the surrounding area or property values.*
3. The proposed use (will / will not) will be consistent with the character of the District, land uses authorized therein and the Town of Zionsville Comprehensive Plan. *The character of the District land uses authorized therein and the Town of Zionsville Comprehensive Plan will be consistent with building a house on this property. Nearby properties already have residences.*

**DECISION**

It is therefore the decision of this body that this SPECIAL EXCEPTION petition is APPROVED/DENIED.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**Petition Number:** 2019-13-DSV

**Subject Site Address:** 855 Starkey Road

**Petitioner:** Town of Zionsville

**Representative:** Wayne DeLong

**Request:** Petition for Variance of Development Standards to:  
1) allow for buildings to be constructed on the property which utilize only one exterior building material (steel)  
2) locate buildings within the required buffer yard(s)  
3) utilizing Type A landscaping while not providing for foundation planting(s)  
in the Urban Special Use Zoning District (SU-8) Zoning District

**Current Zoning:** Urban Special Use Zoning District (SU-8) Zoning District

**Current Land Use:** Wastewater Treatment Plant

**Approximate Acreage:** 7.46 Acres (+/-)

**Zoning History:** 2019-19-DP pending

**Exhibits:** Exhibit 1- Staff Report  
Exhibit 2- Aerial Location Map  
Exhibit 3 – Site Plan  
Exhibit 4 – Photos  
Exhibit 5 - Elevations  
Exhibit 6 - Petitioner's proposed Findings of Fact

**Staff Presenter:** Wayne DeLong, AICP, CPM

## **PETITION HISTORY**

This petition will receive a public hearing at the May 14, 2019 Board of Zoning Appeals meeting. A Petition for Development Plan is also scheduled to be heard at the May 20, 2019, Plan Commission meeting (2019-19-DP).

## **PROPERTY HISTORY**

This property is located at 855 Starkey Road, adjacent the Rail Trail, trail head parking lot and residential properties. The site is comprised of 7.46 (+/-) acres and is presently improved with several buildings and tanks collectively preferred to as the Town of Zionsville's Wastewater Treatment Plant.

## **ANALYSIS**

As contemplated, the property would be improved with 9,820 square feet of buildings, proposed to be utilized to store equipment, vehicles, and materials in both a climate and non-climate controlled environments. The contemplated improvements would be constructed in phases, with the 4,500 square foot barn being the first structure to be installed.

### **Building Materials**

As requested, the buildings would be all steel structures, with openings for entering and existing the covered areas, with a majority of the covered areas being wholly enclosed. The need for the variance arises as the Zoning Ordinance requires a variety of materials to be utilized on the exterior of a building, and specifically requires the use of masonry materials. Given the remote nature of the buildings, the lack of visibility from the public way, the established mature tree line and canopy which is within, and, as well, adjoins the site along the west side, and the provision for approximately 20 feet of undeveloped area between the improvements and the property line which could host screening elements (such as fencing and landscaping), Staff is in support of the requested variance. If these conditions did not exist, Staff would reevaluate its support of the requested variance.

### **Landscape**

As required by Ordinance, all commercial and industrial properties are required to provide for plantings in a variety of locations (examples: required yards, parallel to foundations, parallel to leading edges of parking lots). The regulations, generally speaking, achieve the intended result of providing for enhanced green space and screening, mitigating light spillage, reducing the potential impact created by "heat islands" (as examples). However, in specific cases, such as with a uniquely shaped lot or with a specific use or operation, the strict application of the terms of the ordinance does not result in a benefit to the community given the configuration of the site, the mature vegetation, and other mitigating factors. The Petitioner requests that landscaping (being foundation plantings) not be required to be installed along the buildings where plantings are required by Ordinance. Specific to the north and south sides of the contemplated improvements, each of these walls are intended to not remain wholly exposed (or will contain doors or openings). As to the west side, it receives a reduced amount of sun exposure (given its location adjacent to a heavily wooded area to the west, and, as well, will be in the shadow of the contemplated improvements). Regardless of the property obtaining a variance, at the time of Permit application for each individual building permit associated with any structures installed along the western lot line, the existing plantings and screening elements will be examined and inventoried to determine the value to which they contribute to the overall landscaping requirement. Specific to the petition, in



the event there is a shortcoming, additional screening elements will be installed and are intended to achieve, at a minimum, the values associated with Type A Landscaping.

### **Minimum Yard**

As proposed, the petition seeks relief from the rear yard setback associated with the proposed utility building. The purpose of the setback requirement, among other things, is to manage the separation of improvements from property lines and/or the public way. In this particular case, and as proposed, the improvement would not be adjacent to the public way, and, is utilizing an established rear yard setback enjoyed by an adjacent building. Further, the proposed rear yard setback currently adjoins an established tree line.

As proposed, Staff supports the requested deviation from the current Ordinance as 1) the requested setback is already established along the property line in question, and 2) existing and proposed screening and landscaping elements are to be incorporated into the contemplated improvements.

### **PROCEDURAL – CONSIDERATION OF A DEVELOPMENT STANDARDS VARIANCE PETITION**

The Board of Zoning Appeals shall hear, and approve or deny, all variances from development standards of the Zionsville Zoning Ordinance. A variance from development standards may be approved only upon written determination that:

- (a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*
- (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*
- (c) the strict application of the terms of the zoning ordinance will result in an unnecessary hardship in the use of the property.*

Proposed Findings of Fact are attached for the Board of Zoning Appeal's consideration.

### **STAFF RECOMMENDATIONS**

Staff recommends approval of the design standards variance included in Docket #2019-13-DSV.

### **RECOMMENDATION MOTION**

I move that Docket #2019-13-DSV Variance of Development Standards to allow for buildings to be constructed on the property which utilize only one (1) exterior building material (steel), locate buildings within the required buffer yard(s), and utilizing Type A landscaping while not providing for foundation planting(s), in the Urban Special Use Zoning District (SU-8) Zoning District for the property located at 855 Starkey Road be (Approved as filed, based upon the findings of fact / Denied/ Continued) as presented.

### **PROCEDURAL NOTES**

Prior to commencing with construction, a Development Plan associated with this request will be required to be heard by the Plan Commission, currently scheduled for May 20, 2019 (2019-19-DP pending).



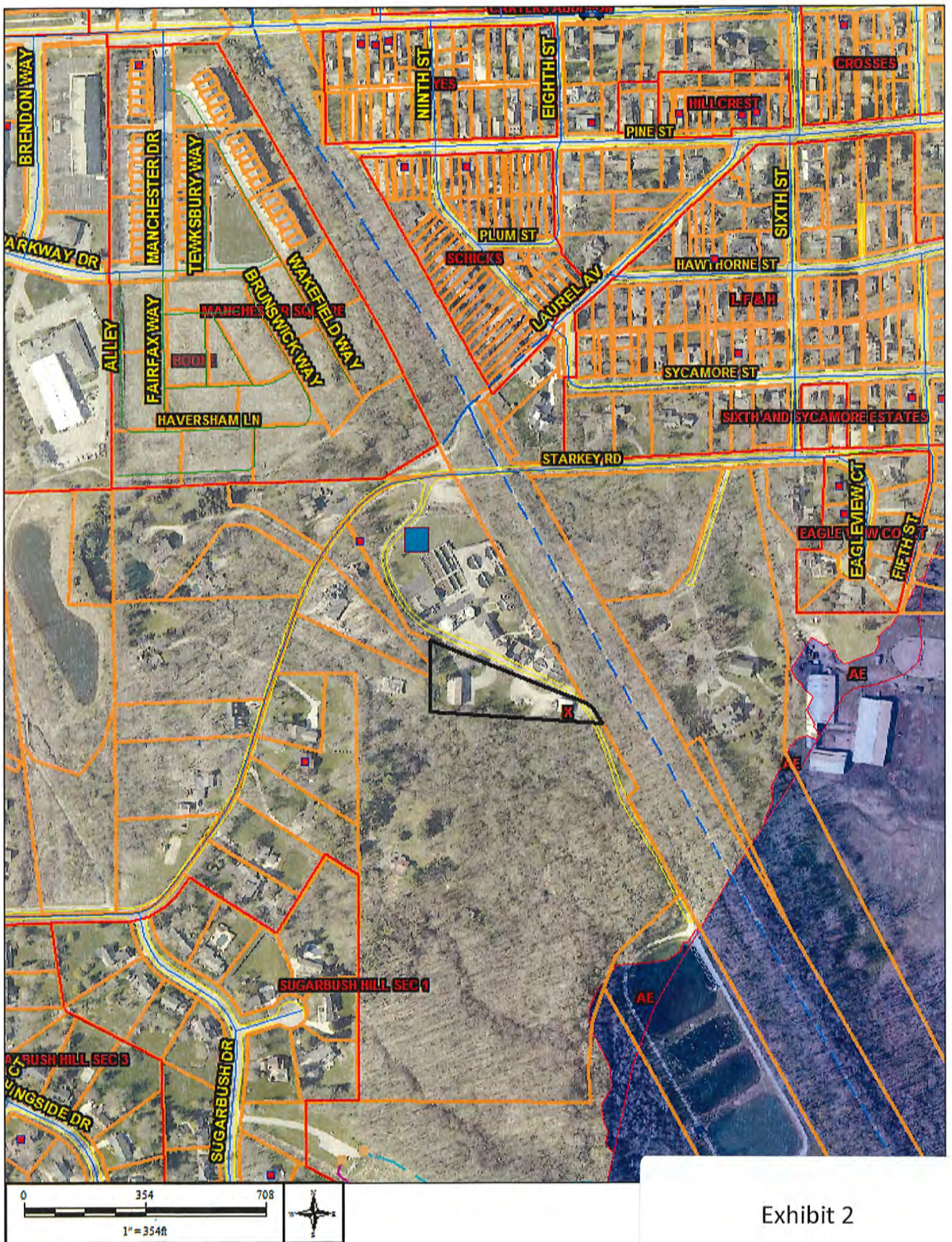


Exhibit 2



## Benchmarks

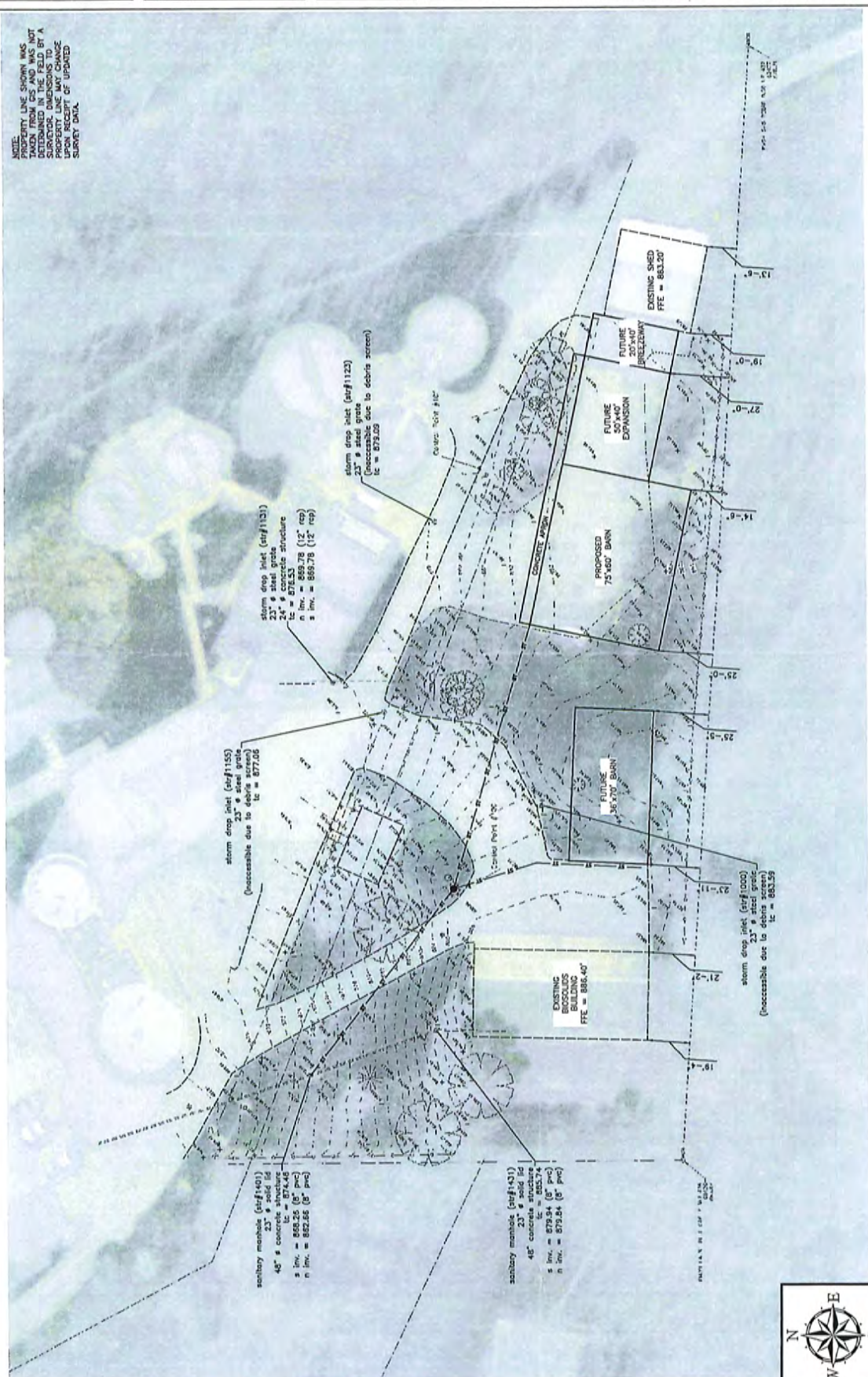
[Site #1] - Branch 1 in 30" Maple tree in dense forest, 21 feet west of the eastern corner of a 20'x20' shed.  
 N: 1711723.7778  
 E: 3105071.3107

[Site #2] - Branch 1 in 30" Maple tree in dense forest, 85 feet northwest of the northwestern corner of a 40'x40' building.  
 N: 1711654.8215  
 E: 3105081.3542

NOTE: PROPERTY LINE SHOWN WAS TAKEN FROM GIS AND WAS NOT DETERMINED IN THE FIELD BY A SURVEYOR. DIMENSIONS TO PROPERTY LINE MAY CHANGE UPON RECEIPT OF UPDATED SURVEY DATA.

### Control Points

Point #	Northing	Easting	Description
100	1711686.9269	3180691.7925	Mag Nail w/Weather Set
201	1711681.1766	3180682.7417	Mag Nail w/Weather Set







Looking North along western lot line (mid-site)





Looking South along western lot line





Looking North along western lot line



5448 W OLD SR 132  
PO BOX 229  
PENDLETON, IN 46064  
www.fredericksinc.com

SCHEMATIC  
DRAWINGS ONLY  
NOT FOR  
CONSTRUCTION

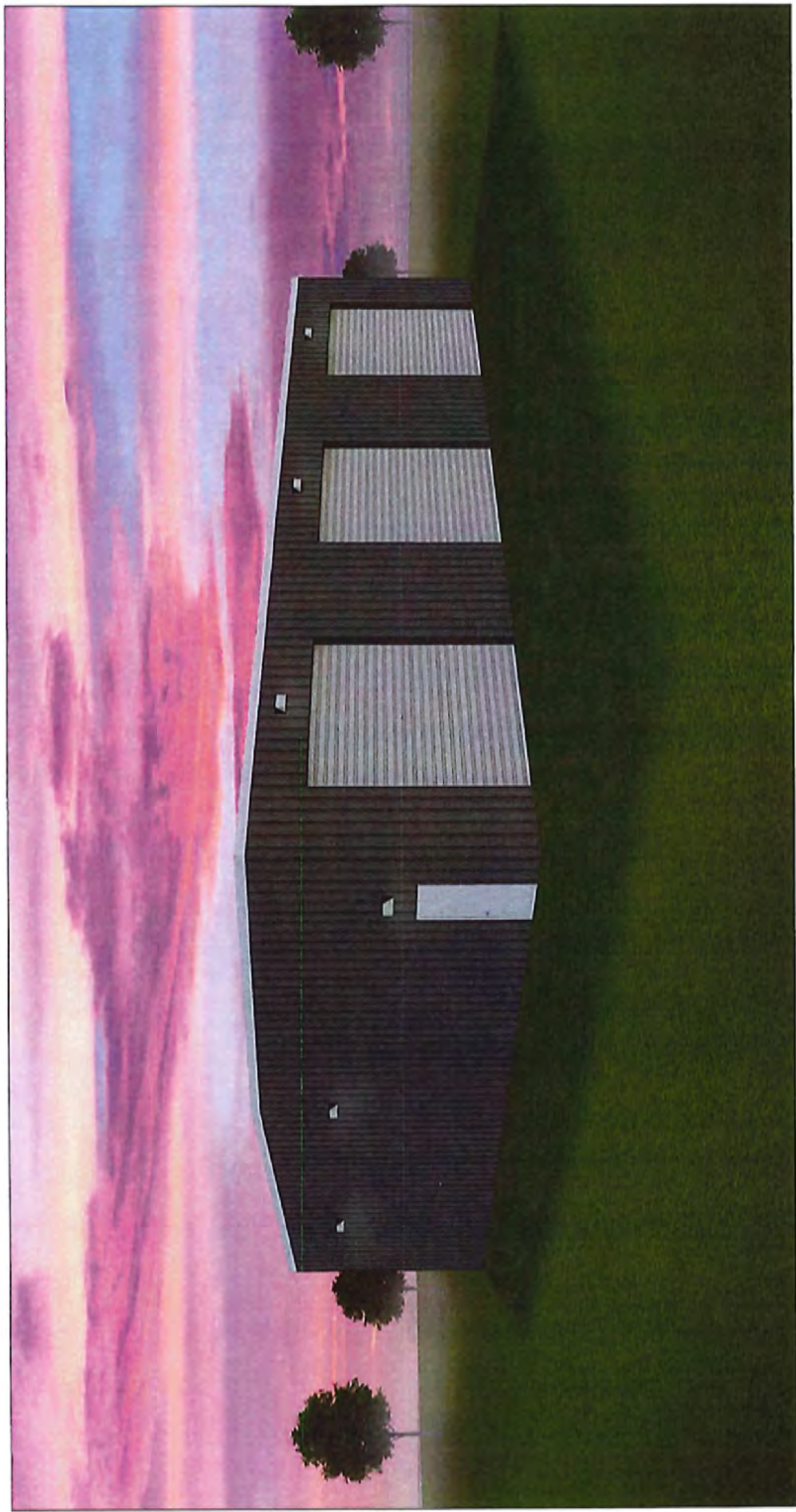
PROJECT:  
ZIONSVILLE  
WASTEWATER  
DEPARTMENT  
MAINTENANCE  
BUILDING  
855 STARKEY ROAD  
ZIONSVILLE, IN 46077

ISSUE/ REV #	DATE	DESCRIPTION

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SHEET TITLE:  
ARCHITECTURAL  
BUILDING  
RENDERINGS

A-301



1 ARCHITECTURAL RENDERING  
NOT TO SCALE





5448 W OLD SR 132  
PO BOX 228  
PENDLETON, IN 46064  
www.fredericksinc.com

SCHEMATIC  
DRAWINGS ONLY  
NOT FOR  
CONSTRUCTION

PROJECT:

ZIONSVILLE  
WASTEWATER  
DEPARTMENT  
MAINTENANCE  
BUILDING

855 STARKEY ROAD  
ZIONSVILLE, IN 46077

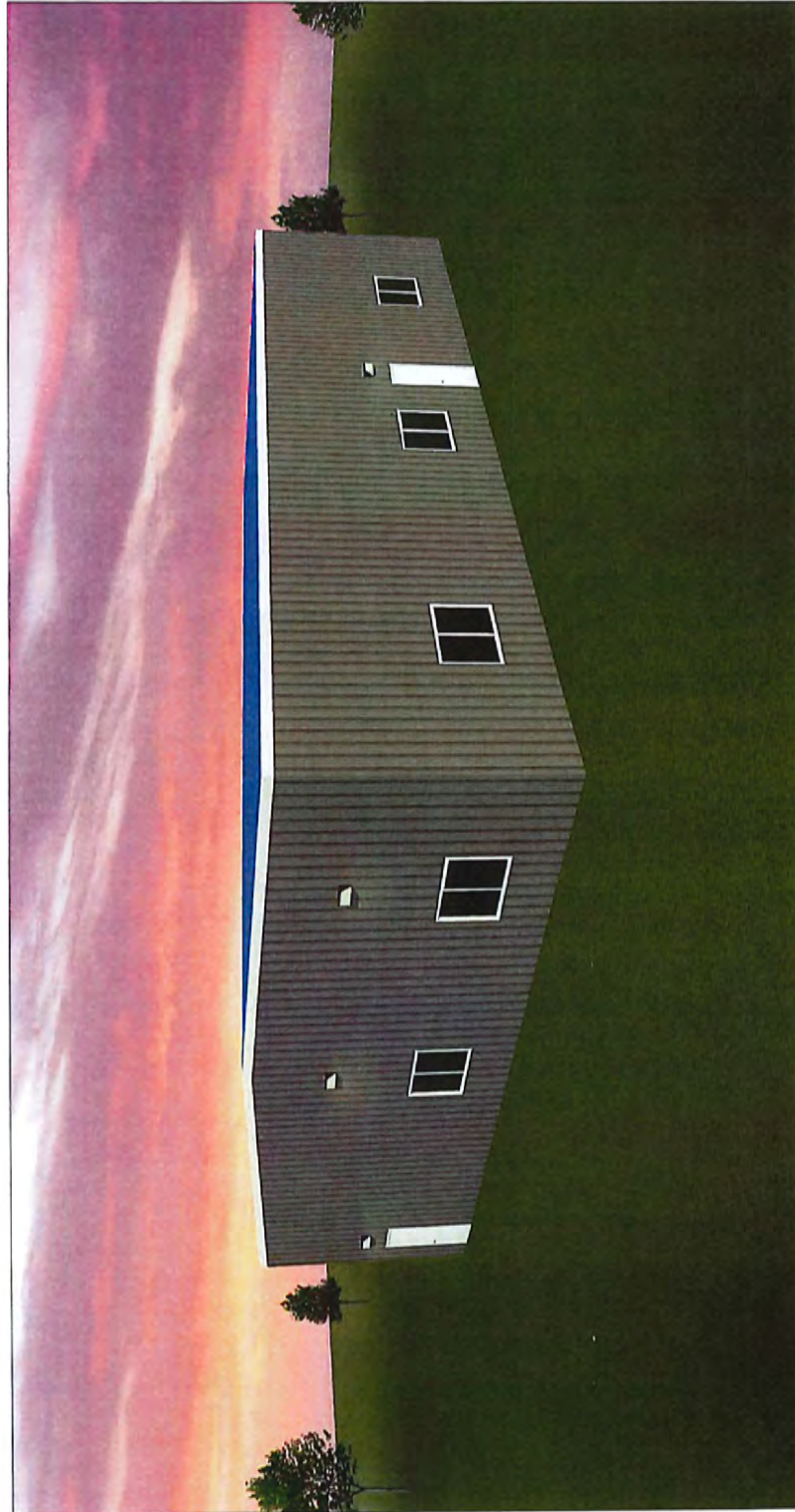
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SHEET TITLE:

ARCHITECTURAL  
BUILDING  
RENDERINGS

A-302



① ARCHITECTURAL RENDERING  
NOT TO SCALE

TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS  
BOONE COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant (**will / will not**) be injurious to the public health, safety, morals, and general welfare of the community because:

As prior improvements have established the standard for vertical improvements, inclusive of buildings being entirely clad in steel panels, the installation of new vertical improvements, conforming to established development standards currently existing on the site, is not anticipated to be injurious to the community.

2. The use or value of the area adjacent to the property included in the variance (**will / will not**) be affected in a substantially adverse manner because:

The use and value of the area is not anticipated to be affected in an substantially adverse manner given that the installation of completely metal clad buildings, including the use of metal roof, is an established method to improve the property.

3. Strict application of the terms of the zoning ordinance (**will / will not**) result in unnecessary hardships in the use of the property because:

While the use of the property for municipal sewage works is a permissible land use, improving the property with buildings (being specifically the portion of the property which is south of the main building improved with brick veneer) that architecturally adhere to the Town's adopted standards, does not yield any benefit to the neighborhood given the remote nature of the property, its lineal configuration, and reduced visibility of the property, would result in an unnecessary hardship.

DECISION

It is therefore the decision of this body that this VARIANCE petition is APPROVED/DENIED.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Zionsville Board of Zoning Appeals  
May 14, 2019

In Attendance: John Wolff, Joe Kremp, Larry Jones, Steve Mundy. Absent is Julia Evinger.

Staff attending: Wayne DeLong, Darren Chadd, attorney.  
A quorum is present.

Wolff Good evening, and welcome to the May 14, 2019 Board of Zoning Appeals meeting. The first item on our agenda is the Pledge of Allegiance.

All Pledge.

Wolff The next item on our agenda is attendance.

DeLong Mr. Kremp?

Kremp Here.

DeLong Mr. Jones?

Jones Present

DeLong Mr. Wolff?

Wolff Present

DeLong Ms. Evinger?

Evinger I don't think Julia was here...

DeLong Mr. Mundy?  
Present.... I think Steve was there...

Wolff Thank you. The next item on our agenda is the approval of the April 9 meeting minutes. Any comments or discussion amongst the group?

Jones I just want to confirm I still have my brand-new chair, and I now have a new computer and printer.

Wolff Congratulations.

Jones Things are coming up down here.

Wolff You are moving up in the world. I'm telling you.

Jones I'm telling you.

Wolff Seeing no other points for the minutes. Is there a motion?

Jones I move we approve the minutes.

Wolff Thank you. Is there a second?



Kremp Second.

Wolff All those in favor, please say aye.

All Aye.

Wolff Those opposed please say nay.

[No response.]

Wolff Motion carries. Next item is continuance requests. Are there any petitioners here tonight seeking to continue their business to the next meeting? Seeing none, moving on to continued business. Docket #2018-46-DSV. Will the petitioner's representative please come forward and please state your name and address for the record?

Jacob My name is Jeff Jacob. I'm an attorney with Hackman Hulett with offices here in town at 1620 West Oak Street, Suite 200. I'm here on behalf of Reesa Pabst, the petitioner who is here this evening, and we also have with us Gary Ladd of Ladd Engineering. To refresh your memory, I know this has been in front of you several times. Ms. Pabst owns 3.83 acres on East 500 South in Zionsville, and she is seeking a development standards variance to permit the establishment of a 1.83-acre lot. Since we were last here, you have been supplied with, as well as the adjoiner, Mr. Paddock, with an amended storm water drainage evaluation. And, Mr. Ladd met with Mr. Paddock on site and walked through some of the drainage issues that he was experiencing on his property. And, I want to use that term loosely because there was confusion amongst, I think, certainly me, the petitioner, and Mr. Paddock as to what was really going on the property. We believe that we have solved or kept any drainage issue from happening on the north of the property. However, Mr. Paddock is experiencing water that is collecting on the western edge of his property, really where his driveway is, and he has a very narrow lot, or narrow drive, that gets back to his lot. That is the common boundary between Ms. Pabst's property and Mr. Paddock's property. So, we have provided you a storm water drainage evaluation, which makes a couple additional recommendations, which we have included in our commitments, which you have also been provided with. Now, to remind you, we have committed that we will install perimeter drains around residential structure so that no additional stormwater will go to the north. That picks up on my comment, Mr. Paddock did experience at one point a drainage issue to the north because of, or we believe development north of him. We are not going to put any more water in that direction. Additionally, any septic that would be installed on the site would drain to the south. Now, the new issue that Mr. Ladd and Mr. Paddock discussed, and we have committed to install prior to this issuance of a certificate of occupancy for the 2-acre lot, would be to install a drainage swale along the eastern boundary of the Paddock property, or an infiltration trench, or a combination of both. The intent here is, and as we discussed this, and Mr. Paddock believes that this will solve any issue in keeping water from flowing over onto him, we are going to move all that water to the south. Additionally, we have added a commitment that we are not going to put any more water to the east other than what we are already doing. So, hopefully those commitments, and

those engineered fixes in concert will prevent, and not just prevent a problem, but will enhance the drainage in the area. So, we think we have put together a pretty detailed set of commitments where we have attached some drainage exhibits showing what needs to happen in the future. Part of our struggle here is not knowing where the house will go, not knowing where the septic will go, and how that will impact the usability of the lot. So, we have come up with a couple of ideas, and Mr. Paddock is certainly here and will speak to any of those issues. The last item relative to the commitments that I was asked to address, if you will note, in Item 3F, we have indicated that these commitments are independent of any state or local building permit or building code requirements. So, as charged last time, I believe that we have addressed drainage in the area. We thought we had it solved last time with any issue to the north. That remains solved, and we believe we have picked up the issue on the common east-west boundary. So, we believe that we have met the requirements and intent of the Board, and we would ask that you follow staff's recommendation and approve our variance request.

Wolff            Thank you, Mr. Jacob. Just a couple points of clarity, and overall speak of the same language, when we create these commitments and these documents, what happens to that is that it is tied to the property itself, and so if someone purchases the property and develops it, they are obligated to honor and fulfill, or live by, these commitments. Correct?

Jacob            Absolutely.

Wolff            Okay. And, then you mention the 2-acre lot, and I looked at my exhibit, but just so we are clear, the 2-acre lot is the lot that is directly next to Mr. Paddock's lot.

Jacob            Correct.

Wolff            So, the 1.83-acre lot is the - -

Jacob            --West from that.

Wolff            Perfect. Thank you. Any questions for the petitioner's representative?

Jones            Quick question for Wayne. What is the setback requirements for this type of parcel? In other words, how close can a house be built on any given property line in the R1?

DeLong          In the R1, generally it is 5 feet.

Jones            Okay. Just the nature of my question is, once this kind of drainage swale or, what is being proposed is basically a re-grading of a portion of the site to create an area that the water off the Paddocks' has access to the south. I cannot foresee somebody building a house in that area. I mean, that does not make - -

Jacob            -- It would not be, Mr. Ladd is certainly here and happy to address this issue, but the property is low, and then it crests on the north part of the property, and that is where a building pad is going to go.

Jones            Yes.

Jacob            We had Mr. Ladd look at re-grading the entire site to move all of the water to the southwest, and it was just not feasible.

Jones            No.

Jacob            So, we think that this, either an infiltration trench or a swale, will pick up that water, and that is going to direct us realistically a house is going to have to go up on the higher ground.

Jones            Right. You always build on the hill. You shouldn't build on the bottom.

Jacob            When you have them Boone County, absolutely.

Kremp           Mr. Jacob, on the commitments.

Jacob            Yes, sir.

Kremp           With respect to the ditch option exhibit and the trench option exhibit, my copies don't have those exhibits. What's the intent to come up with those?

Jacob            My apologies. I thought they had been provided.

Kremp           It may be out of order in my packet. I'm not sure. Does anybody else have a, nobody has that?

Jacob            My apologies.

Jones            I think it's Exhibit 7.

Kremp           So, it may be in the report?

Jacob            Exhibits 4 and 5 I believe are what you're talking about.

Kremp           Okay.

Jacob            They site schematic showing the topography and showing a general concept where the drainage swale would go, or infiltration trench, as well as a cross-section of the infiltration trench detail.

Jones            Mr. Jacob, just real quick. So, I'm looking at a, what's marked Exhibit 7. Is that the same?

Jacob            No, sir. No, sir.

Jones            Do you have Exhibit 7?

Kremp           I think that whole document is Exhibit 7.

Jacob            So, I believe that's part of the staff report, if I may. It would be attached directly to the commitments. It would look like this.



Kremp            We have blank pages. We have Exhibit 1, legal description, and then Exhibit 2, site plan with nothing attached.

Jacob            If I may, I'd be happy to hand this to you. My apologies.

DeLong          These same pages are in the storm water drainage evaluation. Exhibits 4 and 5.

Kremp            Great. Thanks.

DeLong          Again, if you look at the storm water drainage evaluation, it's not labeled Exhibit, but I believe that gradient, or maybe the page back. Oh, it is labeled Exhibit 4 down there.

Jones            I'm sorry. Earmarked Exhibit 4 on the site plan provided by the engineer, they have ended up as Exhibit 7 in our packet.

Jacob            Apologies. So, the intent is that those would be part of the commitment and part of the recorded document.

Wolff            And, as always with commitments we do ask that our legal counsel review those and just make sure we have the verbage right.

Jacob            Absolutely. And, these are taken from somewhat of your standardized.

DeLong          Yes.

Jacob            But, absolutely we would want that, and we would have those recorded within 30 or 60 days.

Kremp            And, then one other small question about the commitments and maybe I misread it. In your Section 3, dealing with, I'm sorry, let me flip back to it, 3E, you refer to one of three drainage improvements shall be installed.

Jacob            Yes. That is a typo that has been corrected. As we were looking at regarding the entirety - -

Kremp            --Okay, so it's just one of two.

Jacob            Two options. We took the possibility of grading the whole site out, and that typo did not get picked up.

Kremp            Okay.

Jacob            It has been corrected, though.

Wolff            Good catch.

Mundy           Mr. Jacob, in the commitments, 3A talks about collecting all of the water that comes from the roof downspouts.

- Jacob Yes, sir.
- Mundy Not knowing what someone might wish to have, could that be expanded to any impervious surface, such as a patio with a ground drain, which would take it to the south.
- Jacob I think that might be, and we're happy to talk about it, and I could have Mr. Ladd address that. I think if we are saying that we are not going to put any more water to the north than what's occurring, I believe that we have captured that. Gary, your thoughts on.
- Wolff Would you please state your name and address for the record? Thank you so much.
- Ladd Gary Ladd with Ladd Engineering, Lebanon, Indiana. If they put an additional patio on, I'm not sure that's going to be a significant enough impervious surface to worry about, particularly since one of the requirements is to capture that drainage before it flows off the east side of the lot. So, I think the objective with the perimeter drains would be to collect as much as we can off the roof, and divert that to the south, but I don't know.
- Wolff So, your opinion would be that with, and I'm using the incorrect term, but the swell, the raised earth on the east side of the property towards Mr. Paddock, that and in addition to the fact that you have a commitment saying that no more water will go to the north, do you feel like those two issues address any other patio or any other impervious material?
- Ladd That's correct, because the drainage ditch or the infiltrate should trench either one would intercept the water is heading off to the east toward the Paddock property.
- Wolff Okay.
- Mundy Well, I take position to say the same thing would happen if you did not put the downspouts into some form of tile and move it to the south. Theoretically that trench should catch any water flowing that direction and then move it to the south. My point is that you never know what someone may wish to do. If they wish to have a 40 by 40 patio, that is a lot of impervious surface and it's very easy as long as you're putting tile in to move that water to the south to just collect it through a ground drain or a couple of ground drains, and also move it to the south, not relay upon the trench and gravity to get it there and then gravity to get it out to the southern portion of the lot.
- Ladd Yes. I think it just comes down to how restrictive you want to be, and, you know, where we draw the line.
- Mundy That's a fairly low cost, low operational procedure to do that if you're doing it anyhow. And, water is a great thing when you don't have too much of it.
- Wolff Mr. Mundy, what commitment was that?

Mundy That's 3A.

Wolff Okay. And you were suggesting roof downspouts, and then add, you were suggesting to include any impervious - -

Mundy --Any impervious surface in the improvement.

Wolff Thank you.

Jacob Mr. Mundy, if I may ask a question. You know, that kind of begs the question if you've got a sidewalk. You know, to Gary's point, where do you draw that line. If you said that you had an area that was larger than, you know - -

Mundy --I would say a sidewalk isn't much less even than a driveway. You know, you could have a paved driveway and you would have a significant amount of impervious surface.

Jacob Absolutely.

Mundy I'm just saying that the drainage allowing gravity to take it where you want it, and then creating this trench that takes it to the south, just as I think Mr. Paddock is experienced, you get silt and buildup, and eventually if you don't maintain those, you eventually wind up with a problem again of it continuing in the direction that he doesn't want it to go, and I don't think that your petitioner wants it to go either.

Jacob Absolutely. So, if we were to include some language in 3A that said that additional impervious area around the residential structure or, you know, patios and sidewalks and the like, would that satisfy your concern?

Mundy It would.

Jacob Okay. And, my client would not have a problem with that.

Mundy Thank you.

Wolff Any other questions for the petitioner's representative?

Jones I'd like to confirm with Mr. Paddock that he's happy with what's been presented.

Wolff Thank you, Mr. Jones. Thank you, Mr. Jacob. Mr. Paddock, you know the routine. Name and address.

Paddock Jim Paddock, 8164 East 550 South. The only thing I really need to bring up is after talking to Gary and working this thing out, I think we're on the same page now, what needs to be addressed. If they add something on the patio, just the drain to tie into that, which is no big deal, I'm totally happy with that. I mean, so, the only fight I had was the drain. So, I think we got that worked out. If that all goes through, and is backed by you guys, where down the road we come across this, we have something to go against. I'm totally happy with it.



- Wolff            Thank you, Mr. Paddock. Any other remonstrators here? Seeing none, I feel obligated to start this conversation and say that Mr. Jacob, Mr. Paddock, thank you. We asked you both to work together last month and you did. And, thank you very much for that. It certainly makes our discussion more productive. With that said, and no Julia, gentlemen, any further comments? Seeing none, can we have the staff report?
- DeLong        Thank you. Staff is supportive of the petition as it has been filed, and certainly amended this evening. I think brevity is best here. Staff again is recommending approval, and I'd be happy to answer any questions.
- Wolff            Thank you. And, as we discussed, the commitments will be reviewed with our legal team. Any questions for staff? Seeing none, I will entertain a motion.
- Mundy         I move that Docket # 2018-46-DSV, design standards variance, in order to permit the establishment of a 1.83-acre lot, which results in a deviation from the required minimum of 2-acre lot size within the low density single-family residential zoning district R1 for the property located at 8090 East 550 South be approved as filed, and recommended by staff, including commitments made and altered by the petitioner this evening.
- Jones           I just have one question. Maybe I better read back through. The commitments really just apply to the 2-acre parcel that is being separated off. Correct? They're not retroactive to the 1.83.
- Wolff           That's what I understand.
- Jacob           They are not. They're specific to the 2-acre parcel.
- Wolff           Two-acre parcel adjacent to.
- Jacob           Yes, sir.
- Wolff           Thank you. There is a motion on the floor. Is there a second?
- Kremp          Second.
- Wolff           All those in favor, please say aye.
- All               Aye.
- Wolff           Those opposed, please say nay.
- [No response.]
- Wolff           Motion carries.
- Jacob           Thank you for your time.

Wolff            Thank you. The next item on our agenda is Docket #2019-12-SE, for 1153 South 700 East. Will the petitioner please come forward and state your name and address for the record?

Jackson        My name is Erin Jackson, if you can hear that, 1153 South 700 East. Let me just say I'm like super nervous. I don't know why.

Wolff            You know, Ms. Jackson. I am as well. So, we'll get through this together.

Jackson        Okay.

Wolff            What I ask is that you are asking for tonight? Why are you here in front of us?

Jackson        I would like to build a house on agricultural zoned land.

Wolff            Okay. Can you tell us a little bit about the house?

Jackson        I can. So, let me tell you the process, because on the plot plan that you see, that you should have, you see two houses. Correct?

Wolff            Yes.

Jackson        Yes. So, that's not actually going to happen. Like, it's going to happen, but okay, we're moving, we're building a garage. And, when I say we, it's me, my fiance and his mother. So, we're going to build a garage to residential standards first. And, we're going to move into that and live in that probably for 5 years, or more. Probably. Then, we'll build our 2800-square foot house that I have plans for if you would like to see. So, no, it will not be two houses. It will turn back into a garage. It's just financially, that's just how it's having to work out for us. So, that's the plan.

Wolff            Thank you. And, how many square feet is this first structure that we're discussing tonight? About.

Jackson        Over 1200, I believe.

Wolff            Okay.

Jackson        Which is the minimum, correct? I think.

Wolff            It may say. And, as you look at the property, it looks like, I'm not sure what exhibit I have here in front of me. The plot plan. We're talking about the structure that is towards the rear of the property, towards the east of the property?

Jackson        Correct.

Wolff            Okay. I'm just going to bring up something that should be obvious. Hopefully you are aware, have you been made aware of the Right to Farm Act? Do you know what that is?

Jackson        No.

Wolff            Okay. So, what that means is, that part of this is that you will have to sign that document. And, what that says is that people around you have the right to perform agricultural things. Like plant fields, and till dirt and things like that. So, you can't get upset with them when they do that because that's their privilege.

Jackson        Yes.

Wolff            Okay. Any questions for our petitioner tonight?

Kremp          So, just to confirm. The garage structure, you're building in accordance with residential requirements, then once you move into the new house, you're not going to use that for residential purpose at all?

Jackson        Correct. Yes, it will be strictly for, my fiance wants to build a car for his daughter. So, that's what it's going to be used for. He likes working on vehicles.

Kremp          When you described it, I heard man-cave.

Jackson        Or man-cave. Yes, it could be basically a garage man-cave.

Kremp          Man-garage. Okay.

Jones           And, generally, a garage is going to be built that will have residential facilities. Bathroom and sleeping area or something like that.

Jackson        Yes.

Jones           And, then will the future house be then attached to the garage?

Jackson        No, it will be separate. If you look at the plot plan, you see proposed, there is a long driveway, then there is a proposed house. That's the garage.

Jones           Okay, I got it.

Jackson        Barn, or whatever you want to call it. And, then the future house, that big rectangle, that's where our dream home is going.

Jones           Gotcha. And, then the septic field to the north will serve both.

Jackson        Correct. Yes.

Jones           Do we have to put out a provision that once one structure is no longer used as a residential structure, the second structure, does that make sense. You know where I'm going.

DeLong        Right. We see this happen from time to time where parties acquire a piece of property, build a small structure to minimum standards, if you will, related to square footage. That 1200 square feet would need to be finished living space, so there would not be a car component storage to this building if it's 1200 square feet, but as the property moves forward into its next life, the second building



permit is sought for the future home. A demolition permit is also filed and approved simultaneously, providing for the conversion of the 1200-square foot building to garage.

Wolff           An accessory structure.

DeLong       Accessory structure, exactly. So, we have, within the ordinances today, this process is permissible. The timing gets very tight at the very end related to weather and other life challenges that can pop up to, you know, hinder the progress, if you will, and certainly the timing slips a little bit. I mean, we have mechanisms to encourage compliance, but certainly there is no variance in front of you this evening. You've seen petitions before where someone petitions for a 3-year period, for example, to build an accessory structure that maybe has a 400-square foot living component in it. That's not what's in front of you this evening. This is merely just a special exception to provide for residential use of a piece of property.

Jones         And, it's not really so much anything needs to be demolished. It just needs to be no longer used as living quarters.

DeLong       Correct. And, the ordinances would still allow a pool house, if you will, or some sort of other accessory structure that does have residential features.

Jones         Yes. You can have a bathroom in a detached garage?

DeLong       Correct. And, the bathroom, but you could not have a full kitchen, for example. There is ways that the ordinance limits that. But, this could be, basically some level of accessory building that has finished features within it.

Jones         And, then what she is asking for, she should only need to ask for once. So, if it gets approved, should provide her both for the existing structure they want to build currently, as well as the future structure on the site.

Wolff         That would be within, if the accessory structure, there is some limits there based on the size of the primary structure, correct?

DeLong       Correct.

Wolff         But, we don't have that in front of us, and I'm assuming they'll figure that out when they get to the primary structure.

DeLong       Correct. And, certainly building a 2800-square foot home, if there is a basement underneath, some other features, yes, they will already be into the conversation a certain percentage already. It might impact things a little bit, but the rural area is much more generous in its ordinances to facilitate this exact type of program.

Wolff         And, it's a large lot. It's 5.86 acres.

Jones         We've had more problems with somebody who wants to build a 12,000-foot accessory structure first, and then not a 1200. So, okay. Yes.

- Wolff            We just had a conversation. Is there anything I can clarify for you about that conversation, or any concerns of what you may have heard? I think what you've asked, I think we agree is what we can handle tonight and I think you're just fine. But, is there anything I can clarify?
- Jackson        You guys just let me know if we're doing anything wrong.
- Wolff            Maybe what I was trying to say is the Town would be upset if we had two resident buildings on that single property. And, so what is going to happen is when you go to build that big nice dream home, there is going to be a period of time where that your current home that we are discussing tonight needs to transition from a primary residence to an accessory structure.
- Jackson        Correct.
- Wolff            Which means garage, or barn, or pool house, or whatever the case may be. So, there will be some work that happens then, but as you mention, that's 5 years from now or some other time.
- Jackson        Right. Yes.
- Wolff            So, I think we're covered.
- Jackson        Yes. And, it's like a, I don't think I provided it, which that was silly, but I have the, you know, floor plan of the barn/garage that shows there really should only be a sink and, you know refrigerator and dishwasher and, maybe dishwasher. I don't know. And stove, and you know, that's really it. It's not going to be anything fancy. We were trying to keep it extremely simple so we can tear it down and put the money towards the nice house.
- Wolff            Sort of a studio-esque.
- Jackson        Yes. Exactly. Yes, it is basically.
- Wolff            Any questions for the petitioner?
- Mundy          I have another Wayne question. Is it required that when the permit for the primary residence five years from now, or whenever that is, and that is completed, that indeed this structure that they're talking about this evening be revert to a garage as opposed to, oh, this would be nice for my cousin who is looking for a place to live, and could it remain a residential structure?
- DeLong        The structure would be permissible to be a structure that had residential features such as dry wall, heated, cooled, access to the septic system, a sink, a toilet, but it cannot have features that makes it qualify to be a standalone single-family dwelling without a separate zoning relief. So, we do have plenty of accessory buildings in the rural area and the urban area that have very nice features that can support various levels of occupancy, but when the building inspection is done, the level of occupancy is reduced because the building might have a full bathroom, but it might only have a kitchenette. It might have a full kitchen, but the restroom is lacking a shower. So, there is pieces and parts that move around.

- Mundy            So, it can have residential features, but it should not have residents.
- DeLong           Correct. It is not a rental property. It is not a second dwelling. Those are mortgaged separately. Those have different entitlements. Those are very different conversations to lenders, as well as the Town.
- Kremp            Just a quick follow-up on that. So, the special exception, if we approve it this evening, it doesn't relate to the number of structures that are built on the property, right. We're just approving the right to build a residential structure on the property. So, if something else were to change in the zoning ordinance.
- DeLong           Be seen again.
- Kremp            Yes.
- DeLong           Now, there have been cases in the past with special exceptions like this where maybe a neighbor would be an interested party that would want to have a little bit more detail as to the fit, feel and finish of the new structure. You've had petitions in front of you where even the setback itself was debated by the Board with interested parties interacting. That's apparently not the case this evening, but you may recall times where the data that's been provided to you is more complex.
- Jones            Just to confirm, we're basically at this point approving both the existing 1200-square foot structure, as well as the future construction of a home. So, we're nailing this property to have the residential construction both current and then five years down the road, correct?
- DeLong           Correct. You have an opportunity to maybe have a little bit more information about their plans than what you would typically have. I mean, if you distilled this down to somebody coming in seeking a special exception to occupy this property for residential purposes with a 1200-square foot home, that would be the end of the story, and as long as you met the findings it would be approved. Five years from now, if they sought a building permit to demolish the existing structure or convert it, it would not come back in front of the Board of Zoning Appeals for a modification to the special exception. It's earning that right this evening if that's something that you grant.
- Jones            And, then the second statement is, this exception only allows for a single residential use on the property, so as they build the future house and use the existing as a house, as a residence, there will come a point where they need to move over. What we have within our jurisdiction is the ability to go back out and cite them for having two residential structures if they don't make the move from the garage to the house, or try to use the garage as a secondary structure. So, we don't really have to go, you know, typically the Town does not go out and look for violations, but this would be a situation by requesting what they're requesting they have kind of put everybody on notice that at some day they're going to move over, and if they don't move over, we have the right to go back out and write them up for staying. Does that make sense?



- DeLong            Correct. And, that right, if you will, is already dictated by the zoning ordinance as it is written, so that is something that would happen with or without execution of the Board on that particular comment. But, certainly in this way you've routinely executed this type of scenario is we would go out and do the final inspection on the new home. We would either be issuing a temporary certificate of occupancy or full CO, and those are words that are of interest to lenders who are then looking for a final certificate of occupancy issued to the homeowner so they can close out construction loans. There is different pieces of the conversation that are different motivation points to the conclude the conversation.
- Jones             And, then Ms. Jackson, the whole reason we are doing all this is just trying to keep you from having to come back and talk to us. Not that we're not delightful individuals.
- Jackson           You don't like me?
- Jones             We're really trying to find a way to make sure this just kind of moves on down the road.
- Jackson           Yes. No, I appreciate that.
- Wolff             Any other conversation or comments? Are there any remonstrators here tonight? Seeing none, can we have the staff report?
- DeLong           Thank you. Staff is supportive of the petition as it's filed. The petition that's in front of you is a petition seeking for special exception for residential use in agricultural area from the site plan that is attached to the staff report. There is a number of homes that are in proximity to this piece of property, the characteristic that is being reduced residential occupancy of a less than 6-acre site, is not introducing a characteristic into the area that is not already established. One of several factors that staff finds favorable with this petition. Certainly the right to farm is a document to be executed as previously described, and Chrissy in our office would help facilitate that. And, I would be happy to answer any questions about the petition.
- Wolff             Thank you, Wayne. I missed it earlier. Also, there is a proximity to the airport. Do we have a document for that, or do we just acknowledge the fact that it's near the airport?
- DeLong           We find it beneficial to put that number in staff reports when it comes to petitions like this.
- Wolff             Okay.
- DeLong           There is a, it's just a gentle reminder. There is no standard, per se, for the Town to provide that notice, but certainly we always encourage folks that are building in proximity to the airport to communicate to the airport, with the airport, to see if there is any standards that they are required to by law to enhance their home with, such as, a denser shingle or a thicker wall, just for sound-proofing. The airport does plan on expanding to a 7000-foot long runway at some point in time,

- so you will see eventually an increased aircraft traffic, and certainly increased usage.
- Wolff            Thank you, Wayne. Any other questions for the staff? Any other discussion? Seeing none, I will entertain a motion.
- Kremp           I'll make the motion. I move that Docket #2019-12-SE, special exception petition in the agricultural district for the property located at 1153 South 700 East be approved based upon the staff report and proposed findings. If approved, it shall be required that the petitioner execute the right to farm commitment documentation.
- Wolff            Thank you. Is there a second?
- Jones            Second.
- Wolff            All those in favor, please say aye.
- All                Aye.
- Wolff            Those opposed, please say no.
- [No response.]
- Wolff            Motion carries.
- Jackson          Yay!
- Wolff            Good luck on your new home.
- Jackson          Thank you, very much.
- Wolff            The next item on our agenda tonight is Docket #2019-13-DSV, the Town of Zionsville, at 855 Starkey Road. I should say Town of Zionsville wastewater treatment utility buildings. Wayne, you want to do your dance?
- DeLong          Yes. I will step down from the deus here.
- Wolff            Please state your name and address for the record.
- DeLong          Wayne DeLong, Director of Planning and Economic Development for the Town, 1100 West Oak Street here in Zionsville.
- Wolff            Thank you.
- DeLong          I am presenting this evening on behalf of Mr. Barry Cook, wastewater treatment plant superintendent. Barry had a number of obligations today, and could not attend the meeting this evening, but certainly would be here if his schedule permitted the activity. The petition that the Town has filed is a request to improve the existing wastewater treatment plant's property with several accessory buildings. Now, these accessory buildings would be functioning for the

purposes of support for the existing wastewater treatment facility. It's occupied the site for several decades. The location is rather interesting. The site where the buildings would be constructed is the western-most edge, the southern-most edge, of the property in question, and ultimately this property is a high spot to the property to the south. That does have a ridge that climbs to this particular location. The variance is necessary for three reasons. The buildings themselves would be constructed of steel. This is the characteristic that exists on the property today when it comes to accessory buildings. This is captured in the exhibits that are in the staff report. The project in totality would build up a little bit less than 10,000 square feet of accessory buildings over a period of years, and this could be a period of decades. It depends on funding mechanisms of the Town, and certainly needs. It's envisioned that this construction of structures would facilitate sort of a wall, if you will, along this property line about 25 feet give or take off that property line, which is seen as advantageous for winds and blockages of viewsheds and things of that nature. In the future, the Town does envision facilitating some additional safety items along that property line, enhancing the fence, potential walls or other types of structures in that 25-foot setback. I'm not here this evening to speak to that right now. The property is enclosed with a chain-link fence that's three to six feet in height with three strands of barbed wire. It has been there for a number of years. Again, the structures are steel, is the first variance request. The second variance request is because these structures would be located within the 30-foot buffer yard. The setback that's proposed mirrors the existing setback that's existing on the property for this exact setup of accessory buildings. And, then the third variance is associated with foundation plantings. The ordinance requires that the buildings enjoy foundation plantings. Given the southerly exposure, the 30 to 50-foot tall tree canopy that's there, the survivability of foundation plantings is seen as somewhat reduced. The property itself is adjoined by a very heavily wooded tree line. That tree line sits on both the Town's property and the adjoiner's property. Certainly the Town would garner the benefit of calculations of the tree, the existing mature trees, as towards its landscape requirements, but in the event there are shortcomings, the Town would certainly be willing to put in the Type A landscaping. And, really, we envision that as a column of arborvitae. A tall, slender type tree, more commonly known as a golf ball catcher when it comes to that type of planting, but they do reach a pretty good height. They are a pretty hardy tree and they're rather inexpensive if we do have a loss rate because of the shade that we would be experiencing. With that, the Town concludes its comments and I would be happy to take questions.

- Wolff            Thank you, Wayne. I have a couple. So, you mentioned, this property is surrounded by a fence. Is it gated, as well?
- DeLong        It is. There is a rolling electronic gate with a key pad that lets people in and out of the property if they have the property - -
- Wolff            --So, Mr. and Mrs. Joe Doe resident, Jane Doe resident, shouldn't be back at this property?
- DeLong        No. For when folks need assistance from the wastewater treatment plant, we have the financing records office here. Also has a deputy director that is the wastewater treatment plant point of contact, and so you would be paying your bill



- here at Town Hall. Really all functions lead to Town Hall, except for the functions of the wastewater treatment plant itself.
- Jones            It's really gated just to keep people out. Not so much worried about people actually stealing anything from the wastewater treatment plant.
- Wolff            I don't know what you would steal from a wastewater treatment plant. I don't want to think about that too much.
- DeLong          No, I mean, that's it. There is no public reason to be on the property. Certainly the Town historically has had visitors to the property over time. That's certainly something that's been reduced with different fencing. The pedestrian trail traverses the side of the property. But, really the intention is to keep, you know, the public out of the realm of the wastewater treatment plant.
- Jones            So, the property actually to the south of this, what is that junk back through there. Is that private property?
- DeLong          So, the pictures that you see, Exhibits 4, for example. Those are all existing condition pictures of the site itself, so the tank, the steel buildings. The tree line behind there is partly the Town's and partly the adjoining property owner to the west. And, we did reach out for notice purposes to contact adjacent property owners. We did speak specifically to Mr. Knighten, who represents the property owner of the property to the south. We did have that opportunity.
- Wolff            Thank you. And, the current structures, they use similar materials as to what you're proposing?
- DeLong          They are an all-steel building. So, looking at Exhibits 4, there are several pictures in Exhibit 4. You can see the steel buildings that are just monochrome in color, slightly pitched steel roof. The building that's proposed is a standalone, or the standing-seemed steel building with a steel roof.
- Kremp            So, that's the building that's proposed as the 75 by 60 barn?
- DeLong          Correct. That is one of four different structures on Exhibit 3. There is a series of rectangles and squares that would be the totality of the nearly 10,000 square feet of accessory structures. The way the Town envisions rolling out this program is as it builds each individual building, it would propose that individual building and present that at the Plan Commission in a separate public hearing. So, for example, next week there is a public hearing that is set to happen on May 20 where the 4500-square foot building would be discussed, and then with subsequent buildings if those are ever sought, those individual buildings would be presented at future public hearings with public notice.
- Kremp            So, just for clarification then, all those, the additional buildings, the approval this evening would be for the steel exterior on all buildings?
- DeLong          Correct.
- Kremp            Okay.

- Jones And, these are just equipment storage? Or, what's the purpose?
- DeLong There is some buildings that will be equipment storage. There will be some buildings that will be more open, maybe just to bring a Bobcat or a small trailer in from undercover and out of the weather. The enclosed buildings would be used for storage of the vacuum truck, for example, that does not have a good place to be stored, or to be washed. There is no wash bay right now that can facilitate that. These buildings would be for mechanical storage of equipment. There is, I'm not aware of, there is no plant use. There is no piping to this side of the property for any expansion of the plant. These are merely storage buildings.
- Kremp How visible would these be from the trail?
- DeLong From the trail. The buildings themselves will be placed in-between existing buildings, so the property, the area that is closest to the trail is already improved with a standalone steel building. So, these structures would be tucked in. So, certainly, as you walk down the trail and look over the multiple basins you would then see these structures. And, also looking over your shoulder, if you were to be walking north, again, gazing over the existing structures.
- Wolff My experience, though, is it's pretty dense back there at this time of the year. So, in winter time it would be more visible, but at this particular time of the year it would be pretty difficult to see anything.
- DeLong Yes.
- Wolff Any other questions for our petitioner? Thank you, Wayne.
- DeLong Certainly.
- Wolff Are there any remonstrators here tonight? Please come forward and state your name and address for the record.
- Knighten I'm Jim Knighten, and I live at 211 Wakefield Way. My partner and I own the 22 acres directly to the south. And, I wouldn't say that we're remonstrators. We just want to make sure that if they're going to be granted the right to build all steel buildings with no foundation planting or anything of that nature, that the property line that separates our property, which we are in current planning stages to become a residential development of that 22 acres. We would just like to see that they follow through with, like, what Wayne was talking about. Putting some sort of trees that would make good visual buffers to where our residents that will be looking right into those buildings, that they would be buffered as a result of that, and maintain those plantings and that fence. Because, it's pretty rough back there now. And, that's fine. We're not trying to cause any issues other than the fact that we just know we're going to build houses back there in the future. And, we don't want them looking straight into those metal buildings.
- Wolff I actually have not been on your property. I think there is some elevation changes to it, as I understand, some ridges and things like that.

Knighten Yes.

Wolff Are you more concerned, and it's kind of, as I look at it, the property we're discussing right now shares a small western border, and kind of a southern or northern border, depending on how you're looking at it. Are you more concerned about the larger border, or the western border?

Knighten The border that is between the two existing buildings.

Wolff Okay, so I'm going to call that the north-south border. Do you think we're all on the same page? It's the larger of the two borders.

Knighten Yes. Yes.

Wolff Okay. Perfect.

Knighten Just something to make it look reasonable.

Wolff Yes. As you think about your future development, you don't feel that your residents want to see the steel structures as they pull into the neighborhood, or something along those lines?

Knighten Right. Right.

Wolff Correct. Okay.

Knighten That's all.

Wolff Thank you. And, was it Mr. Knight.

Knighten Knighten.

Wolff Knighten. Thank you. Are there any other remonstrators here tonight?

Jones I have a question. So, looking at the aerial on Exhibit 2, the larger structure we see to the left of the page, is that kind of opened-based. I don't know how you describe it. It's kind of looks like an existing barn structure of some form.

DeLong Correct. I don't know the exact dimensions of that. It is an open-bay building with open sides. It is a structure that bio-solids are dried and batched, and distributed off-site.

Jones Okay. And, then the other building appears tan on Exhibit 4, but it appears kind of whitish on the previous. That's the one that's existing all the way in the far eastern corner. Or I'm sorry. I'm looking, into, it's the far southern end of the property, right?

DeLong Correct. That is the building that is closest to the existing trail system.

Jones Okay.

- DeLong And, so you'd be looking at this, in Exhibit 4, you'd be looking at the side of the building. If you were looking through the tree line, and you see the LP tank, and the side of the building, that building is used for storage currently. It's vehicular. Be it the vac truck and another larger vehicle.
- Jones We've got a fairly clean property line there along the western side currently, except for the tank.
- DeLong Yes.
- Jones And, then the tank is a propane tank, of some form?
- DeLong I believe so. Yes.
- Jones And, that's all the way down there at the tip somewhere sitting? Yes, there is it.
- Kremp Do you believe the variance will address the remonstrator's concerns? I'm trying to understand the, you know with the elimination of the foundation plantings, what obligations the city actually would have if we grant the variance to address his concerns. Is it specific to, because, I'm hearing him concerned about what the structures may look like from a property that's probably very valuable and could be developed in the future. It sounds like he has comfort level based upon discussions that may have occurred, but in the variance, are we addressing anything specific that would require the city to address his concerns. I think that, as I read it, we are just, we would be relieving the city from the obligation with respect to the landscaping to put any foundations plantings in place.
- DeLong Correct. That's the relief that's requested, is to not require landscape or the landscaping at the foundation and with the property. This property being at the top of the hill, the benefit of the viewshed being interrupted by the foundation plantings is probably pretty reduced, eventually looking at the density of the vegetation. And, even if there is no foliage, the tree trunks themselves will provide a pretty strong way to interrupt the viewshed. What is left, I believe to be, to Mr. Knighten's concern, is that vertical element, and that viewshed from there. And, that's where the column of arborvitae come in. They are rather inexpensive plantings. They are rather hardy, and certainly the Town has not formulated a plan, is it 2 feet on, or is it 20-feet on center, 30-feet on center, 10-foot on center. That's, we're not, the Town has not advanced the plans yet. Certainly that is something that the sewer wastewater treatment plant is willing to commit to, is that it will provide column arborvitaes within, you know, as these buildings are constructed, but to the density height at planting, those types of characteristics, I cannot speak to those. I do know that the Town is committed to not creating a situation where the property owner is not pleased with the outcome.
- Wolff Certainly. So, and with what we're discussing tonight. The new building we're discussing tonight, is there any intention to remove the foliage that is, any of the foliage that's there, or passed the property line, or anything?
- DeLong Not in the least. No. The chain-link fence itself, I mean, there is 25 feet give or take between where this existing building would be put in, then the chain-link



fence, and then beyond that is another 3 to 4 feet before you get to the original farm fence. This project would not remove the chain-link fence.

Wolff Okay.

DeLong In reverse, there will be opportunities to put in some retaining walls to shore up the ground in that area, and certainly enhancements to the fence in it's existing location.

Wolff So, we have a remonstrator, that brings up an interesting point. And, I think I heard Wayne say that the Town would be amenable to adding some arborvitae or some sort of vertical plant to help alleviate our remonstrator's concern. Did I speak out of turn?

DeLong No, we are amenable to that.

Wolff Okay. And, I'm not sure, I'm not terribly concerned about the specifics of height or anything like that. As long as the intent is to obstruct or improve the view from the neighboring property, I think I'm okay with that.

DeLong And, certainly as this project rolls out, if you will, there will be additional opportunities for the property owners to interact with this project via the Plan Commission. We set that up very specifically so if there is dissatisfaction with the first element of the project, when the project comes in for its second run through the program, there can be an opportunity to augment the previous approval and add additional plantings if things didn't work out as we think they will.

Wolff Certainly. That's a good point.

Jones Two questions. So, the actual treatment facilities sit on a separate parcel?

DeLong It is within the 7.46-acre site. The way these parcels were acquired, this particular parcel where these buildings sit, is about two and a half acres, was acquired in the late 60s, early 70s. So, technically, it is a separate parcel, but for purposes of notice, we cast a ring around the entire property.

Jones So, is the other parcel also a SU8.

DeLong Correct.

Jones Okay. And, my other question was when it comes to SU8 zoning, what is allowed in terms of outdoor storage?

DeLong I don't have that answer off-hand. We can look for that. I do know the intention of this petition is to bring all items that are currently outdoors, with the exception of the LP tank under-cover, to eliminate outdoor storage.

Jones Just to address, you know, once again, eliminating foundation plantings and that kind of stuff, if you look at the site, from a maintenance standpoint, it's easier to keep it kind of clean grass up to the building. I'm just thinking for future

development, the storage of the drainage pipe and the other stuff you see in the pictures would be more of an issue than the lack of flowers. So, as long as the intention is to kind of build the buildings, clean up the site, I think that benefits the adjoining property owner, and keeps everything moving forward. That make sense?

DeLong Makes sense. Good point.

Wolff Seems reasonable. Do we need a staff report?

Jones And, then who gives it?

DeLong Well, uniquely we've had this conversation recently about the staff report. It is not just me alone. I am the staff presenter. I am certainly not the lone staff reviewer when it comes to petitions that are filed with various Boards and Commissions. But, certainly, the Town staff is supportive of the petition as it's been filed, and I'd be happy to answer any questions.

Wolff Okay. Any additional questions for Wayne? I think I heard that the Town would be amenable to adding some vertical foliage or arborvitae. With that in mind, I would entertain a motion.

DeLong And, I would offer a suggestion that the motion could include, "subject to additional vertical plantings as approved by the Plan Commission." That way you keep that conversation an ongoing point.

Wolff I think it allows the adjoining properties to continue to be a part of this, and make sure that their needs and concerns are addressed.

DeLong That's staff's intention.

Wolff Perfect. Thank you. With that, I would entertain a motion.

Jones I'll move that Docket # 2019-13-DSV, variance of development standards to allow for a building to be constructed on the property which utilizes one, exterior building material steel, locate buildings within the required buffer yards, and utilize Type A landscaping, while not providing for foundation plantings in the urban special use zoning district SU8 zoning district for the property located at 855 Starkey Road be approved as filed and as presented. Was there another condition we were going to add?

DeLong Subject to ongoing review of landscaping by the Plan Commission.

Jones Okay. Subject to ongoing review of the site plantings via the Plan Commission.

Wolff Thank you. Is there a second?

Mundy Second.

Wolff All those in favor, please say aye.

Zionsville Board of Zoning Appeals  
May 14, 2019

All                   Aye.

Wolff               Those opposed?

[No response.]

Wolff               Motion carries. Thank you, Town. The next item on our agenda is, we had planned on doing some additional training for the BZA members, and at this point, we are going to move that to our next meeting, or some future meeting so we have everyone present. With that, Wayne, any updates?

DeLong            Certainly, very, very quickly. For the # 2019-07-SE, that petitioner's recording, working on recording those commitments. # 2019-06-DSV, that petitioner is working on recording those commitments. Zionsville Underground, we are working through some updates on language. That's, different attorneys are working on that. Petition for 31SE and 32DSV, as well, there is language that's being reviewed. That matter is now pending with the Plan Commission next month. So that is moving right along. No updates on Wildwood Design, and specific to # 2017-11-DSV, we have another workout meeting this Friday with another potential buyer for the project of Ainsley Park, and we're certainly hopeful that those conversations are fruitful. And, that concludes my update.

Wolff               Thank you, Wayne. With no further matters, this meeting is adjourned.